# PUBLIC AGENDA

Please note the estimated time of the public meeting - 10.30-12.45

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<tr>
<th>Item</th>
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<td>Annual Review of the Register of Governor Interests</td>
<td>Melanie Holley, Head of Governance</td>
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<td>Minutes of the last meeting held on 20 August 2018 Matters Arising and Actions Summary check</td>
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<td>6.1</td>
<td>Chief Executive’s Public Report</td>
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<td>Audit Committee Update Report</td>
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<td>Council of Governors Election Results 2018</td>
<td>Andrew Barge, Deputy Head of Governance</td>
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<td>8.2</td>
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<td>Peta Foxall, Lead Governor Tony Ducker, CoG Effectiveness</td>
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| reports | Faye Doris, Patient Safety & Quality  
| Kay Foster, Public & Member Engagement |
| --- | --- |
| **8.3** Review of the Constitution | Melanie Holley, Head of Governance | Information | 5 |
| **9.** Stakeholder Engagement |  |  |  |
| **10.** Information |  |  |  |
| **10.1** Update on Tendering for the External Audit Service | Peter Dillon, Vice Chairman and Chairman of Audit Committee | Information | 5 |
| **The next meeting of the Council of Governors will be held on Friday 1 March 2019, Meeting Rooms 13/14, Ashfords Solicitors, Ashford House, Grenadier Road, Exeter EX1 3LH** |  |  |  |
# COUNCIL OF GOVERNORS PAPER

**Meeting date:** 26 November 2018  
**Agenda item:** 2.0, Public

<table>
<thead>
<tr>
<th>Title:</th>
<th>Annual Review of the Register Governor of Interests</th>
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<tr>
<td><strong>Purpose:</strong></td>
<td>To present to the Council of Governors the annual update to the Council of Governors Register of Interests.</td>
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<tr>
<td><strong>Background:</strong></td>
<td>The Trust is required to annual refresh the Council of Governors Register of Interests for publication on the Trust website. The Corporate Affairs Team wrote to Governors asking them to confirm their interests. Nil returns were required. Newly elected Governors provided the information as part of the induction process.</td>
</tr>
<tr>
<td><strong>Key Issues:</strong></td>
<td>The updated register is attached. Governors are reminded to raise any issues regarding conflicts of interest during the course of a meeting should any arise and to let the Trust know if their interests change at any time.</td>
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<tr>
<td><strong>Recommendation:</strong></td>
<td>That the Council of Governors notes the updated Register of Governor Interests.</td>
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<tr>
<td><strong>Presented by:</strong></td>
<td>Melanie Holley, Head of Governance</td>
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# REGISTER OF GOVERNORS INTERESTS

The following Governors of the Royal Devon & Exeter NHS Foundation Trust have declared interests as listed below:

<table>
<thead>
<tr>
<th>Name</th>
<th>Declared Interest</th>
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<tbody>
<tr>
<td>Michele Baxendale-Nichols</td>
<td>Treasurer, League of Friends of Crediton Hospital</td>
</tr>
<tr>
<td>Richard Bowes</td>
<td>None</td>
</tr>
</tbody>
</table>
| James Bradley         | Independent Lay Member, NHS England Public and Patient Voice Assurance Group Specialised Services  
Vice Chair, Okehampton Patient Participation Group  
Member, Okehampton Health and Wellbeing Network  
Trustee, West Devon Community and Voluntary Services |
| Susie Costelloe       | Member, British Dietetic Association                                                                                                                |
| Faye Doris            | Member, Royal College of Midwives                                                                                                                  |
| Tony Ducker           | Member, British Medical Association (BMA)  
Director, Tony Ducker Ltd                                                                                                                             |
| Kay Foster            | None                                                                                                                                               |
| Peta Foxall           | Chair, Royal Society of Wildlife Trusts (working name The Wildlife Trusts), Charity No. 207238.                                                     |
| Catherine Geddes      | None                                                                                                                                               |
| Dominic Hazell        | Member, Chartered Society of Physiotherapy  
Treasurer, Ebford Residents Group                                                                                                                     |
| Hazel Hedicker        | Member, Unison                                                                                                                                       |
| Douglas Hull          | Member, Liberal Democrat Party  
Councillor, East Devon District Council  
Member, League of Friends Axminster Hospital                                                                                                          |
| Abdul Latif           | None                                                                                                                                               |
| Trish Llewellyn       | None                                                                                                                                               |
| Alan Murdoch          | None                                                                                                                                               |
| John Murphy           | Member, The Conservative Party                                                                                                                    |
| Rosemary Shepherd     | Left Profession Member, National Union of Teachers  
Treasurer, Diabetes UK Exeter Voluntary Group                                                                                                        |
| Angela Shore          | Member, Clinical Studies Advisory Group, research committee, studentship and fellowship committee Diabetes UK  
Member research committee and fellowship committees – Diabetes and Wellness Foundation  
Member, Health Research Board (external advisory committee doctoral training account)  
Chair, Operations Committee, IQVIA Peninsula Prime Site  
Member, Executive Committee, IQVIA Peninsula Prime Site  
President, British Microcirculation Society, Charity # 243589 |

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<table>
<thead>
<tr>
<th>Name</th>
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<tbody>
<tr>
<td>Barbara Sweeney</td>
<td>Trustee, Hospiscare</td>
</tr>
<tr>
<td>Cynthia Thornton</td>
<td>None</td>
</tr>
<tr>
<td>Phillip Twiss</td>
<td>Elected Member, Devon County Council (Feniton &amp; Honiton)</td>
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<td></td>
<td>Member, Devon County Council Health and Adult Care scrutiny committee</td>
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<tr>
<td></td>
<td>Board Member, Local Government Association (Culture, Tourism &amp; Sport)</td>
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<tr>
<td></td>
<td>Elected Member, East Devon District Council</td>
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<td></td>
<td>Member of the Conservative Party</td>
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<tr>
<td>Christopher Wilde</td>
<td>Director, SME Innovation Alliance Ltd</td>
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<tr>
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<td>Member, RD&amp;E Liver Group</td>
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MINUTES OF THE MEETING OF THE COUNCIL OF GOVERNORS OF THE ROYAL DEVON & EXETER NHS FOUNDATION TRUST

Held on 20 August 2018 in Seminar Rooms 3&4, RILD, RD&E Hospital

Present

Public Governors
East Devon, Dorset, Somerset & Rest of England:
Richard Bowes
Kay Foster
Peta Foxall
Douglas Hull
Trish Llewellyn
Alan Murdoch
Barbara Sweeney

Exeter & South Devon:
Tony Ducker

Mid, N. W. Devon & Cornwall:
James Bradley
Linda Hall
Michael James
Cynthia Thornton
Christopher Wilde

Staff Governors:
Michele Baxendale-Nichols
Susie Costelloe
Hazel Hedicker

Apologies
Geoff Barr, Public Governor (Exeter & South Devon)
James Brent, Chairman
Peter Dillon, Non-Executive Director
Faye Doris, Public Governor (Exeter & South Devon)
Catherine Geddes, Staff Governor
Janice Kay, Non-Executive Director
Rosemary Shepherd, Public Governor
Angela Shore, University of Exeter, Appointed Governor

In Attendance:
Jane Ashman, Non-Executive Director
Jeff Chinnock, Head of Stakeholder Communications & Engagement
Melanie Holley, Head of Governance
Simon Knowles, Non-Executive Director (observing)
Julia McGahon, Governance Administrator
Michele Romaine, Vice Chair
Chris Tidman, Chief Financial Officer
Suzanne Tracey, Chief Executive
Professor Em Wilkinson-Brice, Deputy Chief Executive/Chief Nurse

Appointed Governors:
Phil Twiss (Devon County Council)

Item | Minute | Action
--- | --- | ---
1. | 33.18 | APOLOGIES AND QUORUM CHECK
Apologies were listed as noted as above. The meeting was confirmed as quorate. Ms Romaine welcomed Phil Twiss (Appointed Governor, Devon County Council) and Andrew Barge (Acting Deputy Head of Governance) to their first CoG meeting.

2. | 34.18 | DECLARATION OF INTERESTS
Mrs Holley advised the CoG that Philip Twiss (Appointed Governor, Devon
County Council) has declared the following interests:

- Elected Member, Devon County Council (Feniton and Honiton)
- Member, Devon County Council Health and Adult Care Scrutiny Committee
- Board Member, Local Government Association (Culture, Tourism and Sport)
- Elected Member, East Devon District Council
- Member of the Conservative Party

3. 35.18 SECRETARY’S NOTES

Mrs Holley reminded the CoG that there will be an Open Day at the Trust on Saturday 22 September 2018 and that the Annual Members Meeting will take place on 26 September 2018 between 5pm and 6.30 pm in the RILD Lecture Theatre. She requested that members of the CoG should confirm their attendance.

The Council of Governors noted the Secretary’s Notes.

4. 36.18 CHAIRMAN’S REMARKS

There were no Chairman’s remarks.

5. 37.18 MINUTES OF LAST MEETING, MATTERS ARISING & ACTION SUMMARY CHECK

The minutes of the meeting held on 8 June 2018 were agreed as a correct record subject to the following amendments:

P5 – Minute 22.18. Remove reference to a merger.
P6 - Minute 22.18. Change ‘nationalisation’ to ‘regionalisation’
P13 – Minute 29.18. Change ‘extra gratia’ to ‘ex-gratia’
P14 – Minute 30.18. ‘Friday 20’ to be changed to ‘Monday 20’

Action Summary Check

The actions were all completed as per the action summary with the following additions:

22.18 – Ms Romaine to feedback to Mr Brent in relation to the lack of expert support to the CoG working groups over recent months. Ms Romaine said that she has spoken with Mr Brent; the lack of support has been partly due to absence within the corporate governance team at the current time.

ACCOUNTABILITY AND ENGAGEMENT

6.1 38.18 CHIEF EXECUTIVE’S PUBLIC REPORT

Mrs Tracey reported the following to the Council:

1. Plans are in place to rectify the issues around recruitment of nurses. Changes have been made and matrons are now in supervisory roles. Nurses are being recruited from the Philippines, but delays have been encountered in the provision of work visas. Action is being taken to
ensure that these are dealt with as promptly as possible.

2. There has been recent media interest in the use of Graseby Pumps (syringe drivers for infusion of drugs). Mrs Tracey assured the CoG that these have not been used in this Trust since 2011.

3. An update was provided on the use of Tension Free Vaginal Tapes (TVTs; also known as ‘mesh’). A letter has been received from NHS England about this use of TVTs. High vigilance is in place with all patients being reviewed on a case by case basis. It was confirmed that patients are not being disadvantaged and any patient requiring a TVT procedure needs to be approved by the Medical Director. Ms Romaine added that this has been presented to the Governance Committee and discussed in detail.

Ms Foster asked whether this Trust uses plastic mesh, or mesh made derived from animal (pig) sources, as she understood that bowel surgeons only use the animal derived product for which assurance had been received that these have been used to good effect. Mrs Tracey said that Professor Harris would be able to advise on the nature of the implants used. Professor Harris also checks the surgeon's competence to carry out the TVT procedure and assesses each individual case for suitability prior to authorising treatment.

**Action:** Mrs Tracey to ask Professor Harris the nature of the implant used for TVTs (i.e. of animal origin, or plastic).

4. Progress has been made with the ‘My Care’ project. Recruitment is underway in readiness for the launch on 24 September 2018.

Dr Foxall advised the CoG that monthly meetings are in place for ‘My Care’ of which she is a member.

5. Information was provided on the CQC Inpatient Survey Benchmark report and it was confirmed that this Trust’s performance is equal to or better than similar sized Trusts. The positive results shown in the report has been presented at the Patient Experience Committee.

**The Council of Governors noted the report.**

### 6.2 39.18 OPEN QUESTION AND ANSWER

Mrs Llewellyn asked whether the Trust was retaining sufficient consultants. Mrs Tracey replied that the Trust is experiencing the normal turnover of consultants, for example from consultants retiring. These are being replaced and she confirmed that the calibre of candidates is high.

No further questions were raised.

### 6.3 40.18 REPORT ON THE ELECTIONS TO THE COUNCIL OF GOVERNORS 2018

Mr Barge said he would take the report as read. He added that since the report was written, election packs have been received for those staff who do not have access to e-mail. The deadline for submission of votes is 5pm on 6 September 2018, with results being declared on 7 September 2018. Ms Romaine asked the CoG whether they approve the proposal to carry forward the two Exeter and South Devon and Mid, North, West Devon and Cornwall
vacancies to the 2019 round of elections. Mr Bradley said that there needs to be a decision on carrying forward and asked whether the excess of candidates in other areas could be used for vacant areas. Mrs Holley stated that the Constitution would need to be checked to ascertain whether this would be possible. Mr Bradley said that the current position around vacancies cannot continue. Mrs Holley replied that the CoG Coordinating Committee will review this at the next meeting. Mr Bradley added that the CoG Effectiveness Group could also consider this issue, but Mrs Holley advised that the matter would firstly be reviewed by the CoG Coordinating Committee, who would if necessary commission the CoG Effectiveness or other working groups as appropriate. Ms Foster noted that some governors are being appointed without a public vote having taken place (there being insufficient candidates for a vote) and they might not always be suitable for the role.

The Council of Governors noted the report.

6.4 41.18 APPOINTMENT OF A DEPUTY LEAD GOVERNOR

Dr Foxall advised the CoG that an election is planned to take place shortly. The job description for the role is to be updated by herself and Mrs Holley. Hustings will take place at the CoG meeting in November 2018 for this supportive role.

The Council of Governors noted the report.

PERFORMANCE & ASSURANCE

7.1 42.18 PERFORMANCE REPORT

Mr Tidman advised the CoG that the report was taken as read adding that he would outline the themes. He reported that the services provided at the Trust and the staff are under pressure. Significant pressure has resulted from the summer heatwave and sickness levels are higher than normal for the time of year. There has been a 4% increase in demand on Accident and Emergency compared with last year. Referrals have increased by 2.5% for elective and are higher for cancer services. No more funding will be agreed by the Commissioners. Pastoral support is in place for staff. Despite the pressures, additional staff have been recruited, particularly in Gastroenterology and Medicine; however nursing recruitment remains an issue as they are not being appointed as quickly as necessary. There will be additional trainees, but it will take time for them to be fully operational. Money is on track for Q1, but the surplus target is difficult. Plans are in place to address the winter demands. Investment is in place through the ‘Better Care Fund.’ Mr Tidman confirmed that despite the pressure on staff, quality of care and safety for patients is being maintained. He reported a similar situation nationwide.

Mr Tidman reported that performance within Accident and Emergency is strong and in the upper quartile; however there are delays in referral to treatment (RTT) and also for diagnostics.

Questions were invited.

Ms Sweeney sought assurance on the risk rating for overall performance
against the Trust’s licence as the Q1 18/19 result was ‘2’ and the forecast for Q4 18/19 is recorded as ‘1’ in the report. Mr Tidman replied that plans are in place for the end of the year. The Board has seen contingency plans and alternative schemes have been prepared. He added that this is not without risk and the plan to achieve a ‘1’ will depend on winter pressures experienced.

Ms Foster asked whether there is a long term plan to address the pressures resulting from population growth. She said that the Council has statistics on this and asked whether the Trust is using this information. Cllr Twiss advised the CoG that the report from Public Health England had been forwarded to Dr Foxall. The report is very detailed and included information on demographics. Dr Foxall agreed to forward the report to the CoG.

**Action – Dr Foxall to forward the report from Public Health England to the CoG.**

Mr Tidman stated that it is the responsibility of the commissioners to act on the information supplied by Public Health England. He added that this will be the last year that the Trust will receive ‘flat cash’ and next year there will be a more realistic settlement. He advised the CoG that in other areas the impact of new housing developments are not always recognised, and said that he will contact the local planning officer to ensure that developers provide adequate funding. He added that the CCG know that it is not in their best interest to under-commission. There will be planning going forward to ensure sufficient funding. Mr Bradley said that he thought the policy from NHS England was to prioritise primary care. Mr Tidman replied that the strategy is to take pressure of the acute hospital, but it is difficult to address this change in practice. He agreed that that is the NHSE strategy, but added that the 10 year plan will show more detail.

In relation to the pressure on staff and sickness levels, Ms Costelloe noted that this is still increasing and asked whether the Board was going to review what is being done to address this. Mr Tidman replied that Mrs Cottam has agreed further work and will update the Board. The Board will also consider further investment. Ms Costelloe asked how this Trust compares to others. Mrs Tracey advised that this is picked up by the Workforce Governance Committee and much is done to address this. The Health and Wellbeing Plan is in place to address stress and to offer support to staff. Ms Costelloe asked that if sickness levels at this Trust are higher than other, what is being done at other Trusts. Ms Romaine stated that the issues are similar at University Hospitals Bristol NHS Trust, with the same sickness and vacancy issues, and this is a general picture. She added that the Non-Executive Directors have been robust at Board about supporting staff.

Dr Foxall stated that the Governors concerns about patients not receiving results of diagnostic tests promptly, needs to be fed back through PALS.

In relation to the Board Focus section of the report (page 11) Mr James said that more information was needed in relation to the meetings that were reported, to inform the CoG what the meetings were about. Ms Romaine said that the meetings did not have an agenda, but were an opportunity for the Board to meet with Devon Partnership Trust, the Police and Devon County Council. A robust discussion was held about the provision of mental health services with the aim of understanding the issues experienced by each organisation and how they could support each other. She added that
the meeting was a first step from which specific initiatives will be taken forward. Mrs Tracey said that this will be followed up by detailed work into how to improve the care offered for patients with mental health problems in the Emergency Department. Mr James commented that this is good work and the CoG will need to hear more about this. Mrs Tracey replied that this can be picked up in a future joint Board and CoG development day. Cllr Twiss stated that the joined up approach is positive. He stated that the National Planning Policy Framework is in place, but added that local planning authorities are frustrated that healthcare providers are not involved in planning and that the RD&E should be consulted as planning for healthcare when housing developments are being approved is critical. Mrs Tracey stated that the Eastern Locality Forum is in place to address this issue. Cllr Twiss added that a conversation should be held with the planners and he will pursue this with the council.

Mr Hull asked in relation to patients who live in rural areas who receive care in their own homes, how many are receiving care at home now compared to how many were receiving care at home prior to hospital beds being removed in community areas. He asked whether staffing numbers had been increased and what the costs were, as this is important for rural members. Mrs Tracey replied that this has been addressed through TCS (Transforming Community Services), but added that useful information can be provided from the patients who are being cared for at home. The statistics can be provided, but as these can be confusing the patient experience would be more useful. Mr Hull asked what percentage of these patients provide feedback. Mrs Tracey said that this is not done as a ‘tick-box’ exercise as it needs to be meaningful. A comprehensive survey is being done.

Mr Bowes reported to the CoG that there are delays in diagnostic services for cardiology patients. He said that on 24 July 2018 he was contacted by a patient (a retired GP) asking for his help. This patient had waited for four weeks for the results of his tests and had already e-mailed the consultant and telephoned the secretarial team, prior to contacting Mr Bowes. He explained that the patient did not want to use PALS; Mr Bowes contacted Mr Luke (Deputy Chief Operating Officer), but despite his efforts, the report was still not received. Mr Bowes advised the CoG that he then contacted Professor Harris, but as he was away from the Trust the enquiry was responded to by Mrs Holley (Head of Governance). The cluster manager for Cardiology responded in full to the enquiry. Mr Bowes stated that the Cardiology Department is not functioning as intended and it is not appropriate for patients to wait in excess of 11 weeks for reports into diagnostic tests. He added that in his opinion the department would not pass a CQC inspection. Mrs Tracey replied that the issues are being dealt with and that the Board has visibility. She gave assurance that the issues in cardiology are being managed. A plan is in place which includes two consultants and one locum consultant having been recruited. Mr Bowes stated that there have been administrative shortfalls for 21 months. Mrs Tracey said that action has been taken, but there will be a time-lag in catching up with arrears of work. Ms Romaine said that the papers from the Board and the Governance Committee show the discussions that have been held around the issues in Cardiology and that a deep dive investigation has been completed; this is a high profile issue for both the Board and the Governance Committee. Ms Romaine expressed anxiety that Mr Bowes had contacted Mr Luke and Professor Harris. She advised that it would have
been more appropriate to go through the PALS team as this would result in visibility throughout the organisation. She added that PALS is the correct route, but should the individual not want to speak with PALS, they could contact Mrs Holley. Mrs Ashman stated that she has recently chaired a recruitment process for a Cardiology Consultant and locum and commented that they were of a high calibre.

In relation to finance, Cllr Twiss asked whether there was capacity to operate seven days a week and asked whether this was affordable. Mr Tidman replied that there is a time lag in relation to workforce. Across the country Emergency Departments operate seven days a week and have consultant cover; the key is elective capacity. He stated that at the end of the next five year planning there will be an increase, so this would be feasible.

Mr James asked whether the report could be provided in clearer format. Ms Romaine replied that the Board has received the revised performance report and this new version will be available to the next CoG meeting in November 2018.

The Council of Governors noted the report.

7.2 43.18 PATIENT EXPERIENCE COMMITTEE UPDATE

Mrs Ashman introduced Lisa Vogwill (Lead Nurse for Safety and Patient Experience) to the CoG and explained that Professor Wilkinson-Brice will support the PEC presentation.

Mrs Ashman explained that the core duties of PEC were to enhance the patient and carer experience (its primary function), to ensure adequate systems/processes to engage with and act on the opinions of users and the public; to focus on broadening how this can be done, and to provide assurance to the Governance Committee (GC). Information was provided on how PEC assures the GC. This included maintaining and monitoring compliance with patient-facing Trust policies, gathering intelligence from patients and users, analysing and correlating intelligence (e.g. waiting times) and overseeing how the Trust handles complaints and concerns. Mrs Ashman explained that 2017 National Inpatient Survey showed that this Trust is above average for 20 of the 69 questions. The benchmark table in the Management report rate the Trust as being in the top 20% of Trusts for 31 questions but only in the lowest 20% of Trusts for one question which is around the length of time a patient was on the waiting list before being admitted to hospital. The 2017 National Maternity Survey showed that at this Trust 10% more women than at other Trusts said that they were able to move around and choose the position that made them most comfortable in labour. The National Children and Young People’s Survey 2016 showed that this Trust was a positive outlier in 17 areas; the overall score has risen slightly since the previous survey in 2015, with 33 questions out of 59 in the top expected range and none in the bottom range. A follow up survey has been completed into young people aged 15 – 21 not covered by the national Children and Young People’s Survey. Paediatrics routinely have male and female patients accommodated in the same wards; the survey found that the young people were not concerned by the mix in gender, but were more concerned with sharing wards with very young children.

Mrs Ashman stated that further work done by PEC included a review on how
Equipment (such as crutches and mobility aids) can be recycled. The problem has not been solved as there are complex issues involved. The provider of equipment has been commissioned by Devon County Council, so recycling needs to be system wide and cost-effective. Should this not be financially viable a statement should be prepared to this effect, but work is ongoing to find a solution.

PEC is reviewing the pilot of open visiting, which is at its half-way point. A further assessment will be completed at the end of the pilot.

User involvement activity is now reported quarterly to PEC via the Divisions. PEC has seen examples such as care rounds in the Emergency Department being led by Gavin Lloyd (Emergency Care consultant), and that Healthcare for Older People are providing dementia awareness drop-in sessions. PEC has also commissioned work into finding out more about the ‘patient journey’; to hear the voice of patients using the hospital and to find out if there are any trends. Non-Executive Directors are to be part of the CQAT Assessments; they will be more involved and gain knowledge of the patient journey. Professor Kay has put the Non-Executive Directors in touch with the engagement team at the University to help with this work. Professor Wilkinson-Brice said that a conversation had been held at the Integrated Safeguarding Committee meeting about how to engage users. There will be work with third sector organisations to enable feedback to come via the sub-group reports. Mrs Ashman said that it is important to get the viewpoint of this group of patients who may struggle to be heard.

Mrs Ashman advised the CoG that while the main theme for complaints is ‘communication’, the Trust’s main commendation is the positive attitude of staff and communication. Work is being done to address the issues. An update was provided on the Governor priorities going forward. There will be further development on the coding of complaints and in triangulating the data. There will be focussed work with the Assistant Directors of Nursing and other senior nurses to explore how the Trust can improve and share learning. PEC will also explore how ‘patient experience’ training can be incorporated within existing training to link with Trust values and this should include administrative staff as well as clinical staff. Staff will be asked to allow ‘reflection time’ and to share learning.

Ms Romaine invited questions to Mrs Ashman and requested that these should be concise.

Ms Sweeney commended the presentation adding that PEC has taken on board what the CoG wanted, for example communication on waiting times. She added that she is a Trustee at Hospiscare, and at those meetings a patient story (with identifying details removed) is provided; she asked whether a similar presentation could be made to each Board meeting. Mrs Ashman replied that this would be difficult to do without being tokenistic. A staff member from Exeter University has been invited to the next PEC meeting and will share her knowledge and experience. Mr Bradley stated that this comes back to where the information comes from, adding that stories from patients can provide a greater picture; although Healthwatch information is available it does not add to what is already known. Ms Hall asked whether any staff members from lower bands were included on the membership of PEC as they often have information from patients (for example, patients often speak freely to the porters). Mrs Ashman replied.
that as there are no frontline staff on the Committee, the methods of how information is gathered is being looked at. Ms Romaine thanked Mrs Ashman for the presentation and added that there are three governors on the PEC membership so their voice can be heard.

The Council of Governors noted the presentation.

CoG BUSINESS

8.1 44.18 CoG COORDINATING COMMITTEE AND WORKING GROUPS PROGRESS REPORTS

Dr Foxall advised the CoG that only the Member and Public Engagement Group and the CoG Coordinating Committee have met since the last CoG meeting. The paper was taken as read and questions were invited.

Ms Foster stated that a more focussed approach is required in the recruitment of new governors. Despite local businesses being contacted there has been a lack of people coming forward. She said that some Governors are not ‘publicly elected’ as there were too few candidates for a vote to take place. She suggested that in future there should be a greater emphasis on advertising and communicating the role. Mr Bradley agreed that this is a long-standing issue. Ms Romaine stated that as she is not the permanent Chair, the issue should be raised by the CoG with Mr Brent as Chair for his observations and for insight as to what can collectively be done.

Dr Ducker asked for an update on the three papers that were discussed at the last development day. Dr Foxall stated that the papers have been circulated and it was confirmed that the final versions will come to the November 2018 CoG for approval along with the Constitution document. It was clarified that the CoG Rules of Procedure needed to be aligned with the Constitution. The Dispute Escalation Policy and the Governors Roles and Responsibilities document are separate and had already been circulated.

The Council of Governors noted the report.

8.2 45.18 REPORT TO THE COG ON THE PERFORMANCE OF THE EXTERNAL AUDITORS

Ms Romaine presented the report in the absence of Mr Dillon. She said that as a member of the Audit Committee she has witnessed the robust and wide ranging work of KPMG and she supported the recommendation that they should continue as the Trust’s external auditor for the next financial year.

The Council of Governors agreed that KPMG should continue to be appointed as the Trust’s external auditors for the 2018/19 financial year.

8.3 46.18 TENDER PROCESS OF EXTERNAL AUDITORS

Ms Romaine explained that the requirement of the CoG is to nominate three governors to be involved in the process. Dr Foxall stated that Mrs Thornton has volunteered to join the project team; expressions of interest were also received from Mrs Sweeney, Ms Baxendale-Nicols, Dr Ducker and Mr Twiss; however confirmation of the meeting dates are required before the
Governors can commit to the process. It was agreed that Mrs Holley will facilitate the process.

**Action:** Mrs Holley to facilitate the involvement of governors in the tender process for external auditors.

The Council of Governors noted the report.

### STAKEHOLDER ENGAGEMENT

#### INFORMATION

<table>
<thead>
<tr>
<th>10.1</th>
<th>47.18</th>
<th>ANY OTHER BUSINESS</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Dr Ducker asked for an update on the position relating to the Governors’ secure website. Mr Chinnock explained that the website is no longer in existence. Dr Ducker replied that there should be a repository for Governors’ documents and it was agreed that Dr Ducker and Mr Chinnock shall discuss this outside of the meeting.</td>
</tr>
<tr>
<td></td>
<td></td>
<td><strong>Action:</strong> Dr Ducker and Mr Chinnock to discuss the possibility of a repository for governors’ documents.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Mr Hull asked when the voting papers for governor elections are being sent by e-mail. Mr Barge replied that this has already been done.</td>
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<tr>
<td></td>
<td></td>
<td>There being no further business, the meeting was closed.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>48.18</th>
<th>DATE OF NEXT MEETING</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>26 November 2018 in the Boardroom, Noy Scott House.</td>
</tr>
</tbody>
</table>
MEETING OF THE COUNCIL OF GOVERNORS
20 August 2018

ACTIONS SUMMARY
This checklist provides a summary of actions agreed at the CoG meeting, and will be updated and attached to the minutes each quarter.

<table>
<thead>
<tr>
<th>Minute No.</th>
<th>Month raised</th>
<th>Description</th>
<th>By</th>
<th>Target date</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td>38.18</td>
<td>August 2018</td>
<td>Mrs Tracey to ask Professor Harris the nature of the implant used for TVTs (i.e. of animal origin, or plastic).</td>
<td>ST</td>
<td>Nov 18</td>
<td>Update Nov 18: Information provided by Mr Myles Taylor (Consultant Obstetrician and Gynaecologist) relating to the nature of TVTs was circulated to the CoG on 23 August 2018. Action completed.</td>
</tr>
<tr>
<td>42.18</td>
<td>August 2018</td>
<td>Dr Foxall to forward the report from Public Health England to the CoG.</td>
<td>PF</td>
<td>Nov 18</td>
<td>Update Nov 18: the report can be found on here: <a href="http://www.devonhealthandwellbeing.org.uk/jsna/overview/">http://www.devonhealthandwellbeing.org.uk/jsna/overview/</a> The link has also been emailed to all Governors.</td>
</tr>
<tr>
<td>46.18</td>
<td>August 2018</td>
<td>Mrs Holley to facilitate the involvement of governors in the tender process for external auditors.</td>
<td>MH</td>
<td>Nov 18</td>
<td>Update Nov 2018: The expressions of interest in being involved have been noted and will be contacted once dates for any meetings are known.</td>
</tr>
<tr>
<td>47.18</td>
<td>August 2018</td>
<td>Dr Ducker and Mr Chinnock to discuss the possibility of a repository for governors’ documents.</td>
<td>TD/JC</td>
<td>Nov 18</td>
<td>An update will be provided at the November 2018 meeting.</td>
</tr>
</tbody>
</table>

Signed:

Name: James Brent
Position: Chairman
<table>
<thead>
<tr>
<th>Agenda item:</th>
<th>7.2, Public Council of Governors meeting</th>
<th>Date: 26 November 2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>Title:</td>
<td>Q2 2018/19 Performance Report</td>
<td></td>
</tr>
<tr>
<td>Presented by:</td>
<td>Phil Luke, Deputy Chief Operating Officer</td>
<td></td>
</tr>
<tr>
<td>Purpose:</td>
<td>To provide the Council of Governors with an overview of performance in Quarter 2, 2018/19. The format of the Board's Integrated Performance Report, which is the source of information for this report, has recently been amended, so the Council will note a number of key changes to the content and layout of its report. A presentation will given at the November 2018 meeting which will explain the recent changes in more detail and provide an opportunity for Governors to ask questions.</td>
<td></td>
</tr>
<tr>
<td>Status (*):</td>
<td></td>
<td>Decision</td>
</tr>
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</table>
Performance Report – **Quarter 2 2018/19**

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<th>Section</th>
<th>Page</th>
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</thead>
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<td>Overview</td>
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<tr>
<td>Executive Summary</td>
<td>5 - 7</td>
</tr>
<tr>
<td>Activity &amp; Flow</td>
<td>8</td>
</tr>
<tr>
<td>Operational Performance</td>
<td>9 - 16</td>
</tr>
<tr>
<td>Patient Experience</td>
<td>17 - 19</td>
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<tr>
<td>Quality &amp; Safety</td>
<td>20 - 29</td>
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<tr>
<td>Our People</td>
<td>30 - 31</td>
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<tr>
<td>Finance</td>
<td>32</td>
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<tr>
<td>Board Focus</td>
<td>33 - 34</td>
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</tbody>
</table>
Overview of Quarter 2 2018/19

The Trust continued to see demand for services being above planned levels for both emergency and elective care during August and September, however, due to the hard work of staff, the Trust provided good outcomes for patients and performed well against the ED (Emergency Department) 4-hour standard. Referrals remained significantly higher than anticipated, which has made the delivery of key access targets challenging, although there was improvement in Referral To Treatment (RTT) performance.

Patient flow during September 2018 was more constrained than in August 2018, with a sustained period in the middle of the month where the Trust was at Operational Pressure Escalation Level (OPEL) 3, which required the use of a number of escalation beds. This put some pressure on staffing levels, although overall, staffing during September 2018 was significantly better than August 2018, as the summer holidays came to a close. Taking into account local Minor Injury Units (MIUs), performance against the 4-hour Accident & Emergency (A&E) target was 92.1% against the Provider Sustainability Fund (PSF) trajectory of 91.8% for September 2018, which brings the quarterly performance to 93.18% against the trajectory of 92.3%. This means the Trust has achieved the Quarter 2 PSF trajectory and will receive the associated income of £734k. A key issue underpinning the capacity pressures remains the level of delayed transfers of care (DTOC) which, despite good work by the RD&E teams has remained high as a result of capacity problems in the local home care market. During August 2018, the Trust worked with several local partner organisations in undertaking a “system reset” aimed at identifying and challenging cross system barriers to patient flow. Following this process a working group has been established to take forward the key areas and develop long term sustainable solutions. During this period Devon County Council (DCC) have agreed a new contractual framework for providers of domiciliary care from October 2018 which will guarantee hours for business and domiciliary care workers themselves and is expected to increase capacity.

A significant drive during September 2018 has been to finalise arrangements for winter planning and work across both the acute and community services, as well as with our partner agencies across health and social care, has been ongoing to maximise readiness for the winter months. The Trust has also received confirmation that a bid to improve the infrastructure for emergency care had been successful and a significant programme of works to improve the environment on the Acute Medical Unit (AMU) and medical Triage Unit (MTU) for both patients and staff has commenced.

Performance against key indicators continued to be challenging, with a deterioration in the achievement of the cancer standards during the quarter, principally driven by the high demand in Urology which is being seen nationally, steady performance against the diagnostics standards, and an improvement in RTT delivery, where the number of incomplete pathways fell by over 500 patients. The Trust continues to dedicate significant management attention to recovering performance against all three of these important access standards.
Safety and quality metrics continued to show sound delivery of patient care, with falls prevention, infection control and stroke services evidencing ongoing strong performance. Levels of risk assessment for Venous Thromboembolism (VTE) dipped slightly in August 2018, however, the Trust continues to perform well in the provision of thromobprophylaxis to patients and met both targets for the quarter. There were some challenges relating to medical prescribing, which is likely to be a consequence of the change over of junior doctors which took place in August 2018.

Staffing levels continued to be a challenge, however, the Trust was pleased to welcome 73 registered nurses and 19 allied health professionals in September, including 13 nurses from the Philippines and 8 newly qualified nurses. Turnover remained stable at a low level throughout the quarter, and sickness remained steady at 4.1%, with the staff flu vaccination programme launching in early October with the aim of supporting staff health and wellbeing, and thereby maintaining lower sickness levels as the Trust moves towards the winter period.

The increased workload is now putting the Trust under financial pressure, particularly given the block contract agreed with our main Clinical Commissioning Groups (CCGs). Year-to date a deficit of £6.3m has been incurred, which is £1.8m adverse to budget. The Trust is still forecasting a year end deficit of £5.7m, in line with plan which will maximise PSF, although there is a residual £3m gap that will need to be addressed. A mitigation plan incorporates a focus on actions to reduce agency spend, achieve divisional improvements and deliver additional income.
**Executive Summary Q2 2018/19**

<table>
<thead>
<tr>
<th>July 2018</th>
<th>Operational Pressure Escalation Level (OPEL) Status</th>
<th>Unplanned Escalation Beds</th>
<th>Delayed Transfer of Care (DTOC)</th>
</tr>
</thead>
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<tr>
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<table>
<thead>
<tr>
<th>August 2018</th>
<th>Operational Pressure Escalation Level (OPEL) Status</th>
<th>Unplanned Escalation Beds</th>
<th>Delayed Transfer of Care (DTOC)</th>
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<tr>
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<table>
<thead>
<tr>
<th>September 2018</th>
<th>Operational Pressure Escalation Level (OPEL) Status</th>
<th>Unplanned Escalation Beds</th>
<th>Delayed Transfer of Care (DTOC)</th>
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<tbody>
<tr>
<td></td>
<td>1 1 1 2 2 2 3 3 3 3 3 3 3 3 3 3 3 3 2 3 3 3 3 1 1 1 1 1 1 3 2 1 1 1</td>
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<td>32 42 46 37 36 38 39 48 53 55 44 48 38 37 44 51 55 41 39 35 34 37 42 43 38 39 38 38 32 39</td>
</tr>
</tbody>
</table>

**Activity and Flow:**

- Overall flow in July 2018 was variable with 11 days at OPEL 1, 9 at OPEL 2 and 11 at OPEL 3, with the position worsening towards the end of the month. August 2018 was an improvement on previous months, with 14 days at OPEL 1, 17 at OPEL 2 and no days at OPEL 3. September 2018 was a challenging month, with 12 days at OPEL 1, 5 at OPEL 2 and 13 at OPEL 3.
- As anticipated, ward staffing remained challenging throughout August 2018 due to the school summer holidays, which almost certainly impacted upon the level of ward discharges across the month, and which resulted in the use of unplanned escalation bed capacity throughout the second half of August 2018, and into September 2018. This placed some pressure on clinical staffing levels, although the impact on elective activity was low.
- The Delayed Transfers of Care (DTOC) position remained stable during August 2018, although significant capacity issues relating to the shortfalls in domiciliary care capacity over the school holidays was a challenge throughout the month. Despite considerable effort from the community teams, the Delayed Transfers of Care (DTOC) position remained higher than planned in September 2018, predominantly as a result of reduced capacity among independent sector providers of home care.
- The Community Services Division has been highly successful in recruiting additional home care staff, however, these have been engaged in backfilling the shortfall in the home care market. In partnership with Devon County Council (DCC), significant actions to address this are taking place and are being co-ordinated by the Eastern Devon A&E Delivery Board. In particular, DCC have agreed a revised contract with domiciliary care providers which will guarantee hours for business and domiciliary care workers themselves.
- The Trust collaborated with colleagues from commissioner and provider organisations to undertake the Eastern Devon “System Reset,” which commenced on 31 July 2018 and finished on 22 August 2018. The exercise proved useful as a system diagnostic, and in gaining cross organisational alignment on tackling the key issues relating to patient flow.
**Operational Performance:**

- In Q2, the Trust achieved 91.5% Emergency Department (ED) performance for Trust managed services alone, and 93.2% for the Eastern Devon system against the 92.3% Provider Sustainability Fund (PSF) trajectory, meaning that the Trust passed the target and will receive the associated income of £734k.
- Diagnostics performance remained stable, with performance of 86.9% at the end of September, with a reduction in imaging breaches but an increase in the number of patients waiting for echocardiography.
- Performance against the 62-day cancer standard in September was 71.3%, primarily due to the significant (30%) increase in urology cancer referrals, and the ongoing but improving issues with endoscopy capacity.
- Across the other cancer targets, the two week waiting time target and the 31 day cancer targets were not achieved as a result of the same two key issues.
- RTT performance improved, with the number of incomplete pathways falling to 33442 and a slight reduction in the number of patients waiting longer than 52 weeks. Cardiology accounts for over half of the long waiting patients (those waiting longer than 52 weeks) and significant actions are being implemented to tackle this backlog over the remainder of 2018/19 and beyond. Three additional cardiologists have now commenced working, which will support the recovery plan.

**Patient Experience, Safety & Quality:**

- Demonstrating Difference continues to evidence the sustained focus on improving the experience of people using our services.
- There were 262 complaints and concerns received across the Trust during Quarter 1 (2018/19) which is similar to Quarter 4 (2017/18) (260).
- Safety Thermometer - Harm Free care has remained above 95% for the past two audits and is currently at 96.04%.
- July 2018 and August 2018 were particularly challenging months with regards to ensuring clinical shifts are adequately filled. It is important to note that ward teams have worked tirelessly to ensure the safety of our patients. Staffing numbers are starting to improve in relation to our registered nursing workforce, with slow progress noted in net recruitment over the last three months.
- Hospital Standardised Mortality Ratio (HSMR) figures have now been released up to June 2018. Whilst the rolling 12 month position has started to reduce, it currently remains in the above expected level; it is however expected to continue to reduce over the coming months as the 12 month rolling position catches up with underlying reductions in the monthly HSMR position which have been seen between January and June 2018.
- Following external delays, the latest Summary Hospital-led Mortality Indicator (SHMI) data has now been published which shows the Trust position from January to March 2018 as in the ‘above expected’ range. Similarly to HSMR the underlying monthly SHMI figures are showing signs of improvement and the next SHMI publication will include the effect of further improvement work, specifically regarding coding.
- August 2018 was a challenging month in relation to antimicrobial prescribing compliance, which is largely impacted by the new intake of junior doctors, however September 2018 has seen an improvement against all related metrics.
- VTE performance remains stable with both ‘Risk assessment on admission’ and ‘Thromboprophylaxis’ metrics exceeding the target position for the quarter.
- The Trust is maintaining a safe position in relation to the number of falls being reported.
**Finance:**

- A deficit of £6.3m has been incurred as at end of September 2018, which is £1.8m adverse to budget (albeit broadly in line with the NHSI plan).
- Year to date overspends on pay (£1.3m) and non pay (£760k) are partially offset by benefits on Public Dividend Capital (PDC), depreciation and interest (£400k).
- The Trust is forecasting a deficit of £5.7m, in line with budget and annual plan. After assumed Provider Sustainability Fund (PSF), the Trust is forecasting a surplus of £6.5m in line with plan.
- The forecast position reflects the Board approved mitigation plan to offset the CIP shortfall of £5.7m. However, based on current levels of spending there remains an unmitigated risk of £3.0m, which if not achieved, would lead to a further £4.3m loss of PSF funding in Q4.
- The £3.0m risk is primarily due to increased agency pressures as a result of higher than expected vacancies, and increased patient demand above contract for North East West Devon CCG (NEW Devon). The increased demand is also impacting on certain non pay areas.
- In order to address the £3.0m shortfall, there is a focus on three areas - an agency reduction plan, divisional improvements and additional income.
- The Trust has achieved £11.8m of the £23.3m current year Cost Improvement Programme (CIP) target and £5.6m of the £21.0m full year target. Whilst trust wide schemes are on track, divisions are signalling that due to increased demand on a block contract, they are struggling to deliver both their in year and full year CIP targets, which will be reviewed at the Executive Performance Assurance Framework (PAF) meetings in early November 2018.
- The Trust has achieved a score of 2 in the NHS Improvement Finance and Use of Resources year to date, in line with plan.

**Our People:**

- The completion rate for exit interviews is 42.6% based on leavers during August 2018. This is a significant increase on the 26% reported in July 2018, and the highest rate since reporting started.
- There has been a significant increase in the number of roles being actively recruited to, as a result of the backfill requirements arising from internal appointments to the My Care programme. September 2018 in-month recruitment demonstrates a total of 73 Registered Nurses (RNs) started work in the Trust, including 13 Registered Nurses (RN) from the Philippines and 8 newly qualified registered nurses. During the month, 19 Allied Health Professionals (AHP) also started work in the Trust. Vacancies being actively recruited to fell by 35 RNs and 14 AHPs as a consequence of successful previous recruitment activity.
- Overall staff turnover rates remain stable at 11.3%. The rate for Registered Nurses also remains stable at 9.7%.
- The monthly rate of sickness for August was 4.03%. This is the lowest recorded since September 2017. Although the monthly sickness absence rate in September 2018 recorded a small increase to 4.1%, the 12 month rate remains stable at 4.5%.
- Anxiety, stress, depression and other psychiatric illnesses continue to be the highest reported cause of sickness accounting for 25.3% of all sickness absence.
- To reduce the effects of flu on service delivery, the flu vaccination programme started on 8 October 2018.
- This year’s NHS Staff Survey was launched from 5 October 2018 with the majority of employees being able to complete the survey online via an email invitation.
How to Read Chart: Left hand values indicate the variance of the actual activity to plan whilst the right hand provides an indication of total volume of activity and plan. The colour in the axis titles acts as the legend.

• Elective activity in September 2018 was lower than budget for both day case and inpatient activity with a combined year to date underperformance of 5.7%. Whilst some specialties are above budget (General Medicine, Nephrology, Ophthalmology), other key specialties are below budget such as Orthopaedics, Cardiology, Neurology, ENT, Gynaecology, where medical shortfalls are a key driver.

• Overall emergency and non-elective activity was 1.5% above budget for September 2018 and 2.1% above budget for the year. In terms of year on year growth emergency admissions are 2% up on the April – September 2017 period.

• The comparison of referrals against plan excludes ASIs which are now a material number. Once this is taken into consideration referrals are 7.2% above plan in September and 7.7% above plan year to date. The cumulative position including ASIs for GP/Dental referrals to consultant-led clinics is 5.8% growth (~2432 more referrals) in 2018/19 compared to the same period in 2017/18. Key specialties experiencing growth are: Urology (30%), Oral surgery (12.8%), Cardiology (20%), Neurology (20%), Gastroenterology (11.0%), Dermatology (8.5%), Gynaecology (6.4%).
Executive Lead: Pete Adey

Overall performance

- Including all local Minor Injury Units (MIUs) and Walk in Centres (WICs), performance against the 4 hour target was 92.1% for September 2018, meaning the PSF trajectory of 91.8% was met. The breakdown of ED performance for different categories of patients is shown in the table below.

<table>
<thead>
<tr>
<th>Type of Activity</th>
<th>Denominator</th>
<th>Patients &gt; 4hours</th>
<th>% Performance</th>
</tr>
</thead>
<tbody>
<tr>
<td>ED Only</td>
<td>7679</td>
<td>1137</td>
<td>85.2%</td>
</tr>
<tr>
<td>All RD&amp;E Delivered Activity (including Honiton MIU and the WICs)</td>
<td>11728</td>
<td>1137</td>
<td>90.3%</td>
</tr>
<tr>
<td>Total System Performance (including MIUs)</td>
<td>14439</td>
<td>1140</td>
<td>92.1%</td>
</tr>
</tbody>
</table>

- Performance for Q2 including all local MIUs and WICs was 93.18%, meaning the PSF trajectory for Q2 of 92.3% was also met and that the Trust received associated income worth £734k.
- 8 patients waited longer than 12 hours from decision to admit to transfer to an inpatient bed, all of whom were awaiting a mental health bed in another provider.

Key challenges and improvement actions:

- Trust bed capacity was challenging in September 2018 resulting in the number of bed breaches due to bed capacity increasing.
- The department continues to work with specialities in other Divisions to try to improve the pathway of care for expected patients and reducing breaches by directing this flow of patients to an assessment unit rather than ED. This will increase ED capacity and clinical space to better meet the increasing demand.

Ambulance Handover Delays

- The total number of ambulances arriving at the hospital in September 2018 was 2841, an average of 95 per day. This represents an increase from August 2018 when the number arriving per day was 89 and reflects higher acuity.
- Of these arrivals, there were no handover delays greater than 60 minutes and 22 delays greater than 30 minutes, equating to 99.23% of handovers being under 30 minutes in duration.
- The department continues to work closely with South Western Ambulance Service Trust (SWAST) regarding the ambulance handover Standard operating Protocol (SOP) and issues with accurate data capture of handover time and is engaging in ambulance handover improvement work led by the Devon A&E Delivery Board.
- The improvement work includes a new handover SOP which began in shadow form in week commencing the 1 October 2018 and was fully implemented week commencing 8 October 2018. To date, the new SOP has already demonstrated a significant reduction in the number of handover delays reported/validated and accumulative time lost. Work will continue over the coming weeks to refine this process further and ensure the continued provision of safe and increasingly timely handovers.
**Diagnostics** - volumes of patients waiting longer than 6 weeks for one of fifteen key diagnostics tests

**Overall position** – Performance against the diagnostic standard was maintained in September 2018 with performance of 86.9%

**Cardiac & Non Cardiac MRI** - There were 128 cardiac MRI breaches in September 2018, which is line with the previous month. Availability of additional lists is limited due to the capacity pressures in non-cardiac MRI. As a result, the feasibility of using specialist cardiology MRI capacity in the private sector is being scoped. There were 121 Non-Cardiac MRI breaches in September 2018. High demand continued and the maximum number of additional capacity was booked. A further increase in capacity has been secured from October 2018 and therefore, subject to demand, breaches are expected to reduce from October 2018 onwards.

**Endoscopy** - The planned recruitment to cover workforce shortfalls is now complete and additional non-medical endoscopist capacity is in place. Opportunities to in-source additional capacity have become increasingly limited due to high demand for in-sourcing across the south west. The endoscopy team are therefore providing additional weekend lists in October and November 2018 in order to reduce the backlog.

**Echocardiography** - The number of breaches has continued to rise, from 137 in August 2018 to 160 in September 2018. The department will have one additional echo machine from November 2018, which will begin to substantially reduce the number of patients waiting over 6 weeks.

**Neurophysiology** - This has reduced to 51, however, it was not possible to identify sufficient capacity in September 2018 to clear the remaining backlog. The department are continuing to maximise use of the capacity available. A solution to the workforce issue at the root of this issue is steadily progressing.
At the time of writing this report, performance against the 62-day standard is 71.3% against the Trust’s Performance Improvement Trajectory of 83.9% and the national standard of 85%.

Continued high levels of demand, particularly within Urology, and the on-going challenges within Endoscopy remain the two key drivers of the current position.

A review of the key drivers and actions in place to improve performance will be presented to the Board of Directors in November 2018.

**Urology**

- Urology referrals have seen a significant increase of approximately 30%.
- TRUS biopsy waits remain positive at 1 week although Template biopsy wait times peaked at 3 weeks, however this has since reduced to 2 weeks.
- The impact of a reduction in RALP (robotic assisted laparoscopic prostatectomy) surgeon capacity over a sustained period of time, together with an increase in demand has led to a higher number of 62-day breaches.
- The Urology team is undertaking additional operating on Saturdays in order to manage demand.

**Lower GI**

- Current capacity issues within Endoscopy are significantly impacting the Colorectal pathway with an average wait of 5 + weeks, leaving less time to treat patients within the 62-day target. The actions described in the diagnostics section aim to significantly improve this position over the next two months.
- Additional theatre capacity was allocated during September 2018 and further additional theatre has been allocated for October 2018.

**Lung**

- At the time of writing, it is forecast that there will be 3.5 breaches for the 62-day target. These are due to tertiary capacity (1), clinical factors (1.5) and diagnostic capacity (1).
The volume of demand within Urology (30% increase) is the key driver behind the deterioration in the 31 day standard. Since April 2018, the increase has resulted in a need for approximately 60 more robotic surgical procedures.

The team is undertaking additional lists at weekends in order to manage the demand.

At the time of writing this report 4 of the 7 (above) cancer performance targets were met in September 2018.

A review of the key drivers and actions in place to improve performance will be presented to the Board of Directors in November 2018.

2 Week Wait:

- The volume of two week wait (2WW) breaches for Lower GI remains high, with limited capacity due to an increase in referrals and workforce pressures, however, this is improving due to a number of additional clinics and additional endoscopy capacity as a result of the increased workforce, which is now fully in place. Waiting times for 2WW patients are expected to recover quickly, however, it will take a number of months for the backlog of patients waiting for surgery and other treatments to be cleared.

31 Day/31 Day Subsequent:

- High demand within Urology (30% increase) is the key driver behind the deterioration in the 31 day standard. Since April 2018, the increase has resulted in a need for approximately 60 more robotic surgical procedures.
- The team is undertaking additional lists at weekends in order to manage the demand.
- The Surgical Services Division is undertaking a review of theatre capacity in order to ensure that cancer specialties have sufficient capacity to manage the higher level of demand now being seen however this complex exercise will take time to work through.
- In the longer term a networked solution involving the development of a Devon-wide Urology cancer centre is being considered as all local trusts are experiencing the same challenges with demand.
The number of incomplete pathways decreased in the last month by 519 to 92.6% performance for September. Additional Saturday lists are taking place from September to October 2018. It is predicted that from October 2018 activity will increase due to the Trust’s Performance Improvement trajectory of 83.3%. Two vacant consultant posts have been appointed to, however the Trust Trajectory in the interim additional clinics and lists are being released from their normal duties in order to undertake a broad range of recovery actions across outpatients, diagnostics and elective surgery. A RTT communications cell, which meets three times per week, has been established to support the implementation of all plans and co-ordinate the actions undertaken by the additional management staff. An update on key recovery actions at specialty level are set out below.

Orthopaedics
- Additional capacity in the Independent sector has been identified. Suitable patients have been identified and it is estimated that approximately 50 will have been transferred to a local provider by the end of October 2018.

Cardiology
- Three additional consultants have commenced and are primarily tackling the outpatient backlog over the next 4 months.
- An all day workshop with the Cardiology team has identified a number of additional actions to support the delivery of RTT, including the existing consultants doing additional clinics, which is expected to provide over 500 slots over the next three months.
- Due to recent changes in the consultant team the mobile cath lab has been delayed and will be arriving at the end of January 2019. Additional elective capacity from the local independent sector and from Torbay and South Devon NHSFT is also being scoped as a way of expediting the recovery timescale.

General Surgery
- It is predicted that from October 2018 activity will increase due to the commencement of a further consultant within Colorectal Surgery on a substantive basis, and a further colleague returning from a long period of absence.

Ear, Nose & Throat
- Two vacant consultant posts have been appointed to, however the successful candidates are unable to start until October 2019.
- In the interim additional clinics and lists are being provided, on average 1-2 per week.
- A part time research fellow started in October 2018 providing 2 sessions per week of additional capacity.
- Additional activity is being undertaken wherever possible utilising existing and alternative staff.
- Additional Saturday lists are taking place from September to December 2018.

Overall Performance
- The number of incomplete pathways decreased in the last month by 519 to 33442 at the end of September 2018.
- Performance for September 2018 is currently at 83.4% compared to the Trust’s Performance Improvement trajectory of 83.3%.
- In order to support the recovery of the Trust’s Referral to Treatment (RTT) position, significant work has been taking place. A number of managers are being released from their normal duties in order to undertake a broad range of recovery actions across outpatients, diagnostics and elective surgery.
- A RTT communications cell, which meets three times per week, has been established to support the implementation of all plans and co-ordinate the actions undertaken by the additional management staff.
- An update on key recovery actions at specialty level are set out below.

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- Additional Saturday lists are taking place from September to December 2018.

Oral Surgery
- The medical staff position has improved with the addition of a specialty doctor.
Overall Performance

- The Trust had 92 patients waiting longer than 52 weeks at the end of September 2018.

Cardiology

- The significant increase in Cardiology patients waiting longer than planned is a result of the increased waiting times for outpatient appointments. As described in the previous page, significant additional outpatient activity will be taking place over the next four months which aims to dramatically reduce waiting times in this area. This will be followed by the utilisation of a mobile cath lab to tackle inpatient and day case elective backlogs.

Orthopaedics

- Of the 25 patients waiting over 52 weeks at the end of September 2018, 14 have a booked date for October 2018, two have dates booked for November 2018 and two for December 2018.
- All patients have been clinically reviewed as having not come to harm as a result of the waiting time.
- Of the patients who had waited longer than 52 weeks, 16 patients chose to wait longer than 50 weeks, despite having been offered dates earlier. Recording guidance requires that these patients are recorded as 52 week breaches. The Deputy Chief Operating Operator is exploring with NHS Improvement (NHSI) if there is any way these patients’ waiting times could be more accurately recorded to reflect the patients’ own decisions.

General Surgery

- Of the five patients waiting longer than 52 weeks at the end of September 2018, two have dates booked for October 2018, two have dates for November 2018 and one has since been discharged.
- All patients have been clinically reviewed as having not come to harm as a result of the waiting time.

Ear, Nose & Throat

- Of the two patients who had waited longer than 52 weeks at the end of September 2018, one has a date booked for October 2018 and one for November 2018.
- All patients have been clinically reviewed as having not come to harm as a result of the waiting time.

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Executive Lead: Pete Adey
Overall performance

- The Delayed Transfers of Care (DTOC) position remains at an average of 38 for acute beds. The non-acute DTOC position has improved, with the Trust reporting an average of seven patients delayed in September 2018. The number of patients (with identified long term care needs) who are being supported by our community teams (often referred to as ‘Backfill’ activity) due to the worsening capacity of domiciliary care agencies is increasing. This impacts the Trust’s ability to support more people home from hospital, which would improve the DTOC performance to achieve the DTOC target.

Action in place to improve performance

- A continued focus on recruitment has resulted in the support worker vacancy position reducing from 30wte (whole time equivalent) vacancies in June 2018 to 5wte vacancies at the end of September 2018 (5% of the support worker resource.)
- Utilising the Improved Better Care Fund (iBCF) monies the following workstreams are being progressed:
  - Guaranteed Hours Devon County Council commissioning contract.
  - Intermediate Care approach in Community Hospitals aims to reduce the length of stay in the community hospital
  - Simplification of the discharge process, which will improve the pathway out from hospital, reducing the days delayed for all patients referred to the community.
Background

- Urgent Community Response (UCR) is a function of the community teams which includes support workers providing short term packages of care and nurse/therapy assessment within two hours if required, to support people at home or to return home from hospital.

Demand for Urgent Community Response (UCR)

- In September 2018, the UCR team avoided 172 unnecessary hospital admissions (referred by primary care) and 10 patients (referred by the Acute Medical Unit).
- 167 people were supported home from acute hospital beds.

Key issues contributing to Urgent Community Response performance and supporting actions

- The Community Services Division continues to experience some vacancy issues within the support worker establishment, however this is an improving picture from 30wte vacancy to 5wte vacancy. The division is monitoring the recruitment progress on a weekly basis to ensure that the workforce position continues to improve.

- An audit programme of work continues to understand at cluster level what number and percentage of readmitted patients were appropriate, and which were avoidable. From October 2018 all clusters will have regular readmission reviews with MDT including medical staff in order to ensure that any lessons learnt are fed into the improvement programme of the Community Services Division.
Complaints are reported quarterly to the Board, once the data has been received by the Patient Experience Committee (PEC). This section therefore focuses on Q1 2018/19. Governors are reminded that the PEC has three Governor members (Kay Foster, Faye Doris and Barbara Sweeney).

It is noticeable that the Trust compliance with its own internal target of 45 days to close complaints is challenged, however when noted against the national target of 60 days we are in a significantly better position (80%). Attention to closing complaints within 45 days continues.

There have been 262 complaints and concerns received across the Trust during Quarter 1 (2018/19) which is similar to Quarter 4 (2017/18) (260). The main themes Trust-wide this quarter are in relation to communication issues, initial treatment being incorrect and the length of wait for review/treatment. Further scrutiny of this was undertaken at PEC, particularly in relation to initial treatment being incorrect. In part the number of cases deemed to be not upheld relates to a number of these complaints.

A revised Cardiology recovery plan was signed off in early May 2018 and implementation is on track, with increases in capacity planned from August 2018. This is unlikely to fully reduce waiting times back to target levels until Autumn 2019 with the current waiting times for Cardiology having increased to 12-15 weeks. We are informing patients of the potential wait within their post appointment letter, also confirming the escalation pathway for patients who feel their disease process is deteriorating. GP Communication is to coincide with the changes to the letters.

There has been an overall decline in the length of time taken to respond to complaints across the Trust. This is primarily due to operational and staffing pressures; each division has a plan in place to try and reduce this. The Clinical Divisions are still tasked with ensuring regular contact is made with patients throughout the complaints process. In future quarters detail of agreed timescales with the patient, in relation to their complaint, will be reported.

There have been two new cases received from the Parliamentary and Health Service Ombudsman (PHSO). The Trust also received two final reports during the quarter, with one of being partially upheld and the other not upheld. The PEC scrutinises the detail of all PHSO cases and outcomes.
Demonstrating Difference

**Medical Services**
Feedback was received by patients that the car park did not make it clear where disabled parking bays are located. The Diabetic Nurse Team & Clinical Research Facility, Research & Development department have made amendments to the patient and volunteers’ map to illustrate disabled parking bays. This has been positively received by both staff and visitors. Patients are now able to clearly locate disabled parking bays, thus improving their experience attending the hospital. When this example reached the Directorate, it was suggested that this change be shared on HUB (intranet) and with the Communications team for other members of staff to use and learn from across the campus.

**Renal Department**
The Renal dietetic staff identified the lack of a weight management service for renal patients and a questionnaire was compiled which identified a patient’s preference with regards to how a weight management service would be delivered. Following the results of this an eight month nutrition and exercise weight loss service was developed and commenced on 9th May offering 1:1 diet and exercise advice in a 90 minute appointment. An evaluation will be conducted at the end of the 8 sessions (December 2018).

**Surgical Services**
*Pre-Assessment Unit; Acute Surgery Admin Teams; Specialist Surgery Admin Teams; Knapp Ward*
Patient feedback was received with regard to problems with pre-assessment appointments. The Preparation for Surgery team reviewed their booking process for pre-assessment to identify if there was a way that patients could be seen on the same day they were listed for Surgery and also, if they could prevent patients attending for surgery without being offered a pre-assessment. This led to two changes in their processes:

1. The clinics were restructured to create “one-stop” clinics on a number of the lists and where patients are listed for surgery they now have the pre-assessment on the same day. This has been positively received by the patients and is currently in practice for four specialities with the view of rolling this out across the remaining areas. The main focus is cancer patients and those who have travelled out of area.

2. Pre-Assessments booking has been centralised within the actual team rather than each speciality leading to maximising the utilisation of their capacity, resulting in more patients being seen together with the introduction of a reminder service. There has been an increase in the number of patients now attending with a pre-assessment and a reduction in cancellations due to unknown co-morbidities.

**Community Services**
*Exmouth Community Nursing*
A complaint was received from a patient’s family regarding funding arrangements and care home availability. Following a meeting with the staff involved one of the actions was to create a “family meeting agenda”- ensuring everyone is heard, gives a record of what was said and if any actions are required and by whom, allowing the family to be involved.
Demonstrating Difference – continued

**Specialist Services**

Speech & Language Therapy Volunteers

People with disorders of communication are likely to experience high levels of frustration, anger and distress. This can lead to social isolation and significant mental health problems in the long term. It can take these patients a very long time to convey their thoughts and feelings and, with the demands of a busy caseload, it can be very difficult for speech and language therapists (SLTs) to invest the time required. In order to meet these needs the service has taken the initiative to work alongside volunteers. They recruit and train volunteers to communicate effectively with this client group and they then support the team in two ways:

1) **Conversation Partner Scheme**

This scheme enables people to practice and generalise skills learnt during speech and language therapy sessions with the aim of becoming more confident to use them to communicate with others in their social circles. Volunteers are matched with a client whom they visit once a week for six months. Clients are referred in to the scheme by their speech and language therapist, who closely supervises and supports the volunteer. In order to reduce potential dependency on volunteers, we encourage partners to jointly link in with other activities and social support groups. For example, one of our clients found the confidence to join a craft group as a result of the partnership and we encourage at least one joint visit to the charity Living with Aphasia, which aims to provide ongoing support with the emotional impact of communication disability and reintegration into society.

2) **Stroke volunteers – ASU and Yealm**

Having a stroke can be a traumatic experience and for people with communication disorders this trauma is heightened by being unable to effectively communicate thoughts, emotions and questions. Volunteers support our speech and language therapists by giving people the opportunity to have successful and meaningful conversations whilst on the ward, which research has shown significantly boosts wellbeing. Conversations are client-led and there are no limits to subject matter. Often, volunteers gather information about client’s families, careers and interests and record this information which can then be later used by SLTs when delivering therapy to ensure the therapy is meaningful to the person. It can also be used by the wider team for care and discharge planning.

**Yeo Ward – Radioactive Iodine Room**

Patients often feel very isolated as they have minimal contact with nursing staff during their stay due to the radiation levels. Artwork has been provided for the walls and staff have provided a DAB radio, TV, games, puzzles, DVD's, books for entertainment and a laptop so patients can keep in touch with family and friends.

There are tea and coffee making facilities also provided.

**Peninsula Clinical Genetics – Truro**

A support group has been set up for women who have inherited breast/ovarian cancer genes (BRCA 1 and BRCA2). The first support group was set up at The Cove, Macmillan Support Centre, Royal Cornwall Healthcare Trust. Thirteen ladies attended and were able to discuss their experiences. Positive feedback has been received as these patients often felt that they were alone and had limited support. It is hoped this can be replicated across the network.
Executive Lead: Adrian Harris

- Whilst the Hospital Standardised Mortality Ratio (HSMR) continues to reflect a higher than expected number of deaths occurring over a rolling 12 month period, the underlying month by month data is demonstrating a continued downward trajectory from January 2018. It is anticipated that this position will be reflected in the 12 month rolling position by December 2018.

- Following external delays, the latest Summary Hospital-level Mortality Indicator (SHMI) data has now been published which shows the Trust position as in the ‘above expected’ range. Similarly to HSMR the underlying monthly SHMI figures are showing signs of improvement and the next publication will include the effect of further improvement work, specifically regarding coding.

- The Trust has received external mortality alerts for diagnostic categories of Sepsis, Pleurisy and Chronic Renal Failure. Case record reviews and coding reviews are in progress and findings will be reported to the Safety and Risk Committee in November.

- While not triggering an external mortality alert a diagnostic category featuring consistently highly for both HSMR and SHMI is Heart Failure. In response to the National Institute for Cardiovascular Outcomes Research (NICOR) Heart Failure Audit the Cardiology service has embarked on a number of Quality Improvement (QI) projects in support of service delivery.
Pressure Ulcers – Rate of pressure ulceration experienced whilst in Trust care

Pressure ulcer assessment rates continue to remain above the Trust threshold of 95% for September 2018, although there is a small reduction of 1.2% from August 2018. Given the current nursing workforce challenges it remains reassuring that the level of assessment continues to remain above the threshold.

There were seven reported cases of pressure damage across the Trust during September 2018 which is below the levels seen in recent months.
Slip, Trips & Falls – Rate of incidence of slips, trips & falls amongst inpatients and categorisation of patient impact

- Trust wide Falls risk assessments is 91.4% in September 2018, slightly lower than the 91.9% undertaken in the previous month.

- Falls with harm remains within normal variation with the number of falls per 1000 bed days at its lowest since August 2017. It is again reassuring that the number of falls remains low against the continuing use of temporary staff.

- There are three investigations relating to falls with moderate harm currently underway. These will be reported through the Incident Review Group once concluded.

- The Incident Review Group has not been required to review any incidents in September 2018 relating to falls.
The Malnutrition Universal Screening Tool (MUST) forms an integral part of the patients' holistic assessment on admission to the hospital.

August 2018 position remains stable for both the initial screening of patients and the patient screening weekly review, with performance of 89.9% (initial assessment) and 94.9% (weekly review) respectively.

In Specialist Services 98.4% of patients were screened within 48 hours of admission; however, performance has reduced to 86.8% in surgery, 84.8% in Medicine, and 80.4% in community services.

Matrons continue to work with their teams to ensure these assessments are completed in a timely way to ensure appropriate measures are put in place for individual patients. Further commentary is included in the Q2 Home, Community and Hospital report presented to the October 2018 public Board of Directors meeting.
The updated adult drug chart is being rolled out across the acute Trust during September 2018. Initial empirical antimicrobial prescriptions will consequentially have to be re-prescribed after 72 hours, supporting appropriate and timely antimicrobial review.

The Antimicrobial Pharmacist has met with the Deputy Medical Director - Operations and Strategy, to discuss antimicrobial prescribing and ways to improve engagement within the Surgical Division – a meeting will be held with the four Surgical Clinical Directors to agree an action plan.

Individualised prescriber feedback continues on a monthly basis within the Medical Division.

An incentive scheme which rewards areas that excel in antimicrobial prescribing and helps to raise awareness of the importance of antimicrobial stewardship was introduced in September and will be on-going for the remainder of the year.

Activities are being planned to promote World Antibiotic Awareness Week and European Antimicrobial Awareness Day (18 November 2018).
• **MRSA bacteraemia** - There have been no further MRSA bacteraemias since July 2018 and the investigation into the outbreak of limited extent (three cases) associated with Yarty Ward over 15 months has been concluded. The investigation report has been presented to the Infection Prevention and Decontamination Assurance Group and the recommendations will subsequently be reported to the Safety and Risk Committee.

• **C.difficile** - One of the cases identified in September 2018 was the same patient as reported earlier in the quarter with ongoing symptoms. This patient was retested outside of 28 days following transfer to a community hospital. Of the other three cases, one patient died with C.difficile infection cited on Part1a of the death certificate, a red investigation is progressing with a meeting to review the findings scheduled for 24 October 2018. The findings will be reported to the Incident Review Group prior to be reported to the Safety and Risk Committee.

• **E.Coli** - In 2018/19 a 20% reduction is required. Numbers in Q2 2018/19 have been higher than in Q1 2018/19 but this reflects normal variation and no specific trends are evident. Achieving a 20% reduction is unlikely to be achieved in 2018/19; however this is in keeping with the national picture. The Trust continues to actively progress actions within its control to support this reduction; however a significant volume of this reduction requires whole health and social care system wide intervention, facilitated by the CCG.
Efficiency of Care – Patients risk assessed for VTE, given prophylaxis, & operated in 36 hours for a fractured hip

- VTE risk assessment on admission performance has dropped below the target level in September 2018 to 93.9% although the target was achieved for the quarter (95%). Particular areas of challenge were in Radiology and on Abbey Ward (StAU). Further review in these areas have been requested. VTE Thromboprophylaxis performance continues to exceed the target position.

Fractured Neck of Femur (#NOF)
- Of the 54 patients medically fit for surgery, 34 were treated within 36 hours (63%). 12 of the remaining 20 patients had surgery within 48 hours, therefore a total of 85% of patients were treated within 48 hours.
- From September 2018, a weekly #NOF list was allocated every Friday within PEOC theatres, allowing suitable arthroplasty NOF cases to be operated on, with the aim of reducing the number of breaches. These lists have elective patients standing by so no theatre time is wasted should there be no suitable #NOF patients. Two of the four #NOF lists successfully accommodated four suitable #NOF cases.
- Analysis demonstrates that during the period of Thursday 13 to Tuesday 18 September 2018,12 consecutive #NOF admissions breached 36 hours. A combination of factors were identified - no suitable cases for the #NOF list on Friday 14 September 2018, no space allocated for trauma on any of the Saturday PEOC lists on Sat 15 September 2018, high volume of general and #NOF admissions in that period and limited trauma theatre capacity over weekend of 15 – 16 September 2018.
The two linked indicators of direct admission to the stroke unit within four hours and the 90% stay indicator both show a notable improvement over the last six months. Whilst a lower than expected number of stroke admission has contributed to the position, these indicators have also been supported by improved access to the Stroke Rehab unit on Yealm, which has contributed to a sustained fall in mean and median length of stay (LOS) on the acute unit on Clyst, and by the efforts of the Site Management team to preserve space on the Stroke Unit for the next acute admission.

The proportion of patients discharged home metric has been adversely impacted due to improved access to the Stroke Rehab Unit on Yealm. The metric is due to be revised to include the proportion of patients discharged to home from the whole inpatient pathway rather than only from the Acute Stroke Unit on Clyst.

The other indicators remain under close monitoring.
There has been a reduction in spend on nursing overall in September 2018. A plan to reduce off framework agency cost is being developed with the Assistant Directors of Nursing (ADNs), and the HR and finance departments, initially through an improved offer to our temporary bank workforce and our own staff.

In the last three months the volume of new starters has been higher than the volume of leavers in the nursing establishments. The net effect is that there are 15 more registrants working in Band 5 posts than 3 months ago. There are currently 13 overseas colleagues going through the OSCE (Objective Structured Clinical Examinations) process, currently in band 4 posts that are likely to pass and become UK registrants in the next 6-8 weeks further adding to our registrant workforce.

The Assistant Directors of Nursing continue to monitor staffing on a daily basis.

Medical staff expenditure has overspent by £1.4m year to date, mostly relating to vacancies and sickness or absence requiring high cost agency cover. A further review of the arrangements for the highest cost agency medical staff is underway being led by the Deputy Medical Director Operations and Strategy. Recruitment remains ongoing in a number of areas which includes an overseas recruitment round for Paediatrics commencing November 2018. A joint workforce session has been scheduled for November 2018 at which divisional teams will present their divisional workforce plans as part of a check and challenge process which will inform the overall clinical workforce plan. This will include a focus on alternative roles and non-medical roles to support service delivery.
- Overall the level of cover being maintained in the clinical areas has held steady and is providing the necessary nursing and health care assistant support on the wards.

- As the level of new starters increased at the beginning of September 2018 the ability to cover shifts improved. Where the number of staff have been noted as below the 100% fill rate ADNs and the Senior Nursing team have exercised their professional judgement in ensuring safety is maintained. Daily ADN staffing meetings continue.

- The fill rate at night for care staff is still in respect of intentionally over-staffing Tiverton and the additional requirement for 1:1 staffing for specialing.
Over the last 12 months our total budgeted FTE has increased by more than 150. This includes an increase in registered nurse establishment of 42 compared to September last year. Over the last 12 months there have also been large increases in the number of vacancies for both AHP staff (from 45 to 71) and registered nurses (from 138 to 213). Of the AHP vacancies 31 are community based which includes 21 physiotherapists.

During September 2018 a total of 73 Registered Nurses started work in the Trust including 13 registered nurses from the Philippines and 8 newly qualified registered nurses. A further the month 19 AHPs also started work in the trust. Vacancies being actively recruited to in September 2018 fell by 35 RNs and 14 AHPs as a consequence.

The number of admin and clerical vacancies remains high at 155 with the majority as a consequence of the number of roles being backfilled as selection of internal staff for the My Care programme progresses.

In terms of staff leaving the Trust overall turnover rates remain stable at around 11.3%. The rate for registered nurses also remains stable at 9.7%.

A senior nurse has been appointed to support the 12 month project to integrate the SafeCare (patient acuity) module into our Allocate rostering system. SafeCare matches dependency and acuity of patients in inpatient areas to staffing requirements.

### Establishment, Turnover & Vacancy

**Established workforce vs plan, turnover rate, & vacancy position**

#### Established FTE vs. Plan

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#### Staff Group

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<td>208.0</td>
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<td>Additional Clinical Services</td>
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<td>Admin &amp; Clerical</td>
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<td>Allied Health Professional</td>
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<td>Medical and Dental</td>
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<td>Registered Nurses</td>
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<td>Unregistered Nurses</td>
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<td><strong>Total</strong></td>
<td><strong>7477.4</strong></td>
<td><strong>7163.5</strong></td>
<td><strong>695</strong></td>
<td><strong>212</strong></td>
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Although the monthly sickness absence rate has recorded a small increase to 4.1%, the 12 month rate remains stable at 4.5%. Using the latest data published by NHS Digital for June 2018 the monthly sickness rate for the NHS is 3.96% which is lower than the Trust’s monthly rate of 4.27%. The RDE rate is also higher when compared with the ‘Acute – Large’ group which reported a rate of 3.99%. Of the 35 trusts in this cohort, the RDE is ranked 26th behind Royal Cornwall, Plymouth and Torbay & South Devon.

Anxiety, stress, depression and other psychiatric illnesses continue to be the highest reported cause of sickness accounting for 25.3% of all sickness absence (up from 25.0% last month) and represents 2,249 days absence (2,198 last month). The estimated cost of this category of absence is £159k for September 2018 and £2,578k for the last 12 months.

As expected moving into the winter months, days lost as a result of colds, coughs and flu have increased from 2.6% of all sickness absence in August 2018 to 5.8% in September 2018. To reduce the effects of flu on service delivery the flu vaccination programme started on 8 October 2018. Last year 75% of frontline staff were vaccinated.
Income and expenditure (I&E) performance
For Quarter 2 2018/19, the Trust has, before the I&E adjustment for the capital donations/grants, achieved a deficit of £2.2m against a planned deficit of £2.2m and is forecasting a surplus of £6.5m against a planned surplus of £6.3m.

EBITDA (earnings before interest, tax, depreciation and amortization) for Q2 was £6.5m against a plan of £7.0m and is forecast to be £23.7m against a plan of £25.2m.

Cost Improvement Programme (CIP)
The Trust has achieved year to date CIP of £6.8m against a plan of £6.9m and has achieved £11.8m against the current year plan of £23.3m. The Trust is forecasting to achieve its CIP plan of £23.3m.

The recurrent savings achieved so far for 2018/19 is £5.6m against a recurrent full year plan of £21.0m.

Cash
As at the end of Q2, the Trust had a cash balance of £73.6m, which is £8.6m higher than planned.

Capital Expenditure
Actual capital expenditure is £6.9m lower than the budget and the variance includes slippage of £1.7m on Private Patients’ Unit, £1.0m on the 4th Linear Accelerator scheme and £0.9m for the 2018/19 Estates Infrastructure programme, and slippage spread over other schemes of £3.7m.

Capital expenditure of £28.7m is forecast, £7.0m lower compared to £35.6m than budget. The variance is mostly due to slippage of £3.6m on the 4th Linear Accelerator, £1.9m on the Private Patients Unit, £1.3m on the Deck Car Park, £1.8m for the CT Scanners and other schemes slippage of £3.1m, which is off set by an increase in capital expenditure of £4.7m for the My Care scheme.
Board Focus during Q2

This section provides an overview of issues discussed by the Board of Directors during the second quarter of 2018/19. The CoG is reminded that agendas and minutes from the Board meetings held in public are available on the Trust’s website.

The Board looked in detail at the Trust’s performance during the quarter in the discussions around the Performance Reports but also in relation to other items on the Board’s agenda.

• The Board and CoG held a Joint Development Day in July 2018 which focussed on the Trust’s corporate strategy and Constitution, the collaborative agreement with Northern Devon Healthcare Trust, the My Care programme.

• At its July 2018 meeting, the Board, as the contract holder for the National Institute for Health Research Clinical Research Network: South West Peninsula, received its Annual Report 2017-18 and annual plan and finance plans 2018-19 for approval.

• At the same meeting, it also received the Annual Report 2017/18 and Annual Programme 2018/19 for Infection Prevention and Control.

• The Board received the Q1 Home, Community and Hospital Report at its July 2018 meeting. The report, previously known as the Ward to Board report, had been revised to incorporate agreed community metrics. There was also feedback on the changes to visiting times along with a presentation on the Junior Doctor Improvement Academy and how it was working to improve care.

• In its confidential July 2018 meeting, the Board discussed the post-transaction report regarding Castle Place Practice Tiverton, a Strategic Outline Case for the Breast Care Unit, an Outline Business Case relating to the Energy Performance Contract, an update on the Linear Accelerator replacement and additional bunker, a Travel Improvement update, an update on the Children and Young People Services tender and the Q1 2018/19 financial return to NHS Improvement.

• The Board also held a session with colleagues from the South West Ambulance Services Trust (SWAST). This session looked at ways to reduce handover delays in the ED and the review being undertaken by SWAST into the way the service responded to 999 calls.

• At the September 2018 public meeting, the Board received the Learning from Deaths quarterly report. Professor Harris, Executive Medical Director, supported by Dr Tom Martin, Trust Mortality Lead, outlined what work was being undertaken in this area in terms of improving data quality and learning from deaths.

• The Board received an update from the Professor Harris on medical revalidation for 2017/18. The Board approved a ‘statement of compliance’ that the Trust was in compliance with the regulations regarding fitness to practice for doctors.

• Following updates on Referral to Treatment (RTT) at its February and April 2018 meetings, the Board received details of a ‘deep dive’ review at its September public meeting. The Board discussed the factors behind the challenges to meeting the RTT target and the recovery plan in place to address performance issues.
Board Focus during Q2 continued

- During the quarter, the Board received routine reports from the Audit and Governance Committee. It held detailed discussions on key strategic issues at each of its confidential meetings.

- At the end of each Board meeting, the Board also had a discussion on the effectiveness of the meeting (What Went Well, Even Better If) and reflected on whether the Board and considered and upheld the Trust’s Vision and Values during its meeting.

- There were regular Chief Executive updates to the Board throughout the quarter:
  - Mrs Tracey informed the Board that the Trust had received urgent guidance from NHS Improvement (NHSI) on 10 July 2018 regarding a high vigilance restriction period in relation to vaginal tapes. Trusts were requested to postpone all cases if clinically safe to do so. Mrs Tracey confirmed that an urgent and same day review had been carried out by Professor Harris with the Clinical Leads for Urology and Gynaecology. Professor Harris said that the Trust had identified 20 patients who were waiting for the procedure and all of these cases had been paused. All of the patients were contacted with an explanation provided as to the reason why their surgery had been postponed.

- In September 2018, Mrs Tracey reported that the Devon Alliance had been announced as the preferred supplier in relation to the Children and Young People Tender. Also in September 2018, Mrs Tracey informed the Board that on 11 September 2018, a team of staff from the RD&E and Torbay and South Devon NHS Foundation Trust (TSD) had presented to a panel from Public Health England (PHE) to pitch for a Diabetic Eye Screening (DES) Service for the whole of Devon. If the tender was won, the DES partnership would gain West Devon, which was currently provided by a private provider.

- Mrs Tracey was pleased to report to the Board that the Trust’s Open Day, held on Saturday 21 September 2018, which was the first in ten years, had been a great success. She thanked everyone involved for their tremendous efforts which had succeeded in showing the Trust at its best despite the weather.
COUNCIL OF GOVERNORS PAPER

Meeting date: 26 November 2018

Agenda item: 8.1, Public meeting

Title: ELECTIONS TO COG RESULTS 2018

Purpose: To formally present the results of the 2018 elections to the Council of Governors (CoG).

Background: This paper updates the CoG on the results of the annual elections to Council of Governors and provides a review of the elections.

Key Issues:
1. Election Results 2018

Public Constituencies
The results of the election in the public constituencies were declared, and circulated to CoG, on 7 September 2018. They are confirmed below:

East Devon, Dorset & Somerset and the Rest of England
Richard Bowes was re-elected for a term of three years. The turnout was 24.9% (this was 26.9% in September 2017).

Mid, North, West Devon & Cornwall
James Bradley was re-elected uncontested for a term of three years. Two vacancies remain and the CoG decided at its August 2018 meeting that the vacancies would be carried to the next routine round of elections in 2019.

Exeter & South Devon
Abdul Latif and John Edward Murphy were elected uncontested for a term of three years. Two vacancies remain and the CoG decided at its August 2018 meeting that the vacancies would be carried to the next routine round of elections in 2019.

Staff
The results of the election in the staff constituency was declared and circulated to CoG, on 7 September 2018. It is confirmed below:
Catherine Geddes was re-elected for a term of three years and Dominic Hazell elected for a term of two years. The turnout was 13.7% (14.6% in September 2017).

2. Retiring Governors
The following Governors retired from the Council of Governors at the Annual Members Meeting 2018:

- Geoff Barr
• Linda Hall
• Michael James (chose not to stand again).

The Chairman has written to all Governors to thank them for their support of the CoG with an exit interview offered.

3. Review of the election process in 2018

The key issues arising from the elections this year have been the two vacancies left in the Exeter and South Devon constituency and two vacancies left in the Mid, North, West Devon & Cornwall constituency. There was also a deterioration in the turnout year on year.

This year, the Trust undertook the following activities to promote interest in Governor vacancies and in the elections themselves:

External communications and engagement:
• Front page link ‘Become a Governor’ on corporate website
• Updated Governor page on members’ site with new information booklet and Governors film
• Three news stories on members site (at various key times)
• Flagged in members monthly update emails over a period of three months
• Targeted email to those who had previously expressed an interest in running for election inviting them to attend a prospective Governor meeting
• Specific ‘Become a Governor’ mail to all members with a link to the new booklet and Governor film
• Chairman's letter and posters sent to all GP surgeries and League of Friends on the Trust’s stakeholders list
• Email/mailed ‘Become a Governor’ communication to targeted local businesses and potential partnership organisations
• Election ballot papers and a print version of Chairman’s update Letter (including message to participate in the elections) sent as a combined mailing to all members without email addresses within the East Devon, Dorset, Somerset and Rest of England constituency
• Two prospective Governor meetings held with follow-up evaluation by those who attended
• Use of social media to link to stories

Internal communications:
• Staff Governor Drop in sessions
• Contact us to find out more – scheduled sessions to speak with Jeff Chinnock about the role
• Hub news posts
• All staff email
• Posters around Trust
• Screen saver

This was a step-up from the actions taken the previous year, most notably reaching out to stakeholders; however the focus was primarily on contacting staff and
members particularly those with email.

With regards to the two Prospective Governor meetings, attendance was down on 2017 (25 members in total at two meetings) with 22 members in attendance this year (15 at the Tuesday afternoon session, 7 at the Wednesday tea time session). There were several members who sent their apologies who were sent the information packs. Those members who did attend were sent a survey to complete with nine members responding. All nine said they found the meeting ‘Useful’ with eight out of nine saying the meeting helped them come to a decision as to whether or not to stand for election. Of the members who submitted nominations, six of the ten new candidates (i.e. those not already Governors) attended one of the meetings.

4. Number of Candidates / Vacancies

- In terms of interest from members in this year’s elections, there were four vacancies in the Exeter and South Devon constituency this year with six requests for a nomination form from members living in this constituency. With only two forms returned, an uncontested election was declared. This suggests there was interest in the constituency from members but for reasons the Trust is not aware of, completed nomination forms were not submitted by four of the six members. Had they done so, an election would have been triggered.
- There was one candidate for three places in Mid, North, West Devon and Cornwall Devon therefore this constituency was also uncontested and no election took place in this area.
- The number of candidates standing in the contested elections (six for one place in East Devon, Dorset, Somerset and Rest of England, and four for two places for the Staff constituency suggests that the Trust’s promotion of the elections did have some successes.

5. Electronic Voting

Electronic voting has been available to NHS Foundation Trusts since late 2014 when the Model Election Rules were amended to allow it as a method of polling. The RD&E altered its Election Rules in 2015 (CoG approved in July 2015) to allow this method of voting.

Taking into account the use of electronic voting to date, resources and costs, it was decided for the routine round of elections in 2018 that all members with an email address (whether staff or public) be sent their ballot papers by email with the only option of voting electronically.

Public members without valid email addresses within the East Devon, Dorset & Rest of England constituency in which elections took place received ballot papers via post. The mailing costs were reduced by sending them out with the Trust’s Chairman’s update/GDPR mailing. Savings were made on postage.

ERS, the election company engaged by the Trust, said that other Foundation Trusts had experienced a drop in voter turnout when they too chose this method of balloting. In planning for the elections, as in 2017, the Trust ensured regular emails
were sent to members informing them that they would be receiving their ballot by email. It was also highlighted at the Prospective Governor meetings. ERS sent reminder emails to those members who had not cast their vote before the deadline.

In the one voting public constituency, of the total number votes cast, 48% were cast electronically compared to 41% in 2017. In the staff constituency, 95% of the total number of votes cast were cast electronically compared to 96% in 2017. As predicted the turnout in the public constituencies was down in 2018; however benchmarking data supplied by ERS shows that the average turnout for acute trusts is 15.2%. Looking just at Trusts that used the same methodology as the RD&E (mixed post and email despatch) the average turnout is 14.5%. With a total turnout of 19.3% this year, the RD&E is therefore still above average.

The Engagement Team have continued to capture more public members email addresses and as e-communications become more embedded in our engagement with members, it is expected that the Trust will continue to use the mixed post and email despatch methodology for all future Council of Governors elections.

6. Look Ahead to Elections 2019
As stated, it is expected that the Trust will continue to use the mixed post and email despatch methodology for all future Council of Governors elections due to the resources saved and the relatively (compared to other FTs) good voter turnout. Continued engagement with members to ensure they are aware of electronic voting will form part of the planning for the elections in 2019.

The Trust plans to follow a similar programme of engagement and communication for the 2019 round of elections and will also consider extending the approach further by using public advertising and a mail drop to members without email. Both of these will incur costs but could be of benefit in terms of encouraging Trust members to engage with the process and stand for election.

**Recommendation:** That the Council of Governors note the election results and the review of the elections 2018.

**Presented by:** Andrew Barge, Deputy Head of Governance
COUNCIL OF GOVERNORS PAPER

Meeting date: 26 November 2018  
Agenda item: 8.2, Public meeting

Title: COG COORDINATING COMMITTEE AND WORKING GROUP PROGRESS REPORT

Purpose: To update the Council of Governors on the work of, and the progress being made, by the three working groups and the CoG Coordinating Committee.

Background: The three working groups are: CoG Effectiveness, Public and Member Engagement and Patient Safety and Quality. Each Group is led by a Governor with membership of each Group open to all Governors. Each Group reports quarterly to the CoG Coordinating Committee, with the Chair of each Group a member of the CoG Coordinating Committee.

CoG Coordinating Committee (update from Peta Foxall, Lead Governor)

This report provides an update on the discussions and actions from the meeting of the CoG Coordinating Committee held on 29 October 2018.

Introduction: All members of the Committee were present. The action notes of the meeting held on 23 July 2018 were confirmed as accurate. Progress against the action tracker was noted. The Committee asked that Bethany Hoile be thanked for her help with the notes at recent meetings.

Key Issues: Discussions focused on working group activities, specifically future ways of working, terms of reference and administrative support. The work of the Staff Governors in promoting their role across the Trust was received and commended. Draft agendas for the joint CoG/Board development day and the CoG meeting on the 9 and 26 November 2018 respectively were received and items for subsequent meetings were considered. Governor attendance at meetings was noted. A separate confidential part of the agenda focused on the Code of Conduct and Behaviour Charter for Governors.

Forward View: The following were agreed: (i) the role description and election process for the Deputy Lead Governor, (ii) that NHS Providers guidance documents to support governors in their role be shared and (iii) elections need to be held for vacancies on the Nominations committee and NED Remuneration Committee.

To note: the proposed date of the next meeting is the 14 January 2019.

Public and Member Engagement working group (update from Kay Foster)

Purpose of the working group: To ensure that the Council of Governors is meeting its duty to represent the interests of members of the Trust and the interests
of the public and contribute a Governor perspective to the development of the
Trust’s engagement work.
The last meeting was held on 5 November 2018.

1. Community Engagement
Governors encouraged to look in a new direction focusing on Community
Engagement, using and developing their network (e.g. to hard reach groups) to
actively listen and gathering information on the mood of the community and feed
back to the Trust.

Three projects where Governors are already doing this:

a. With the Deaf community.
b. Joining Patient Participation Group in local Medical Practice
c. Community project Living Well Devon - seminar delivered to Royal Devon and
   Exeter Hospital staff, feedback very positive.

2. Membership Forms Circulated
Membership forms have now been circulated to the Maternity Unit, Exmouth and
Sidmouth Community Leaders for distribution. This will be monitored and if
successful rolled out to other areas.

3. Feedback from Barbara Sweeney from NHS Providers Workshop in London
on 12 September 2018
This was introduced in Part 2 of the meeting - the Committee proposed:

a. To revisit the Governors Constitution, e.g. do we need 26 Governors?
   Should we abolish boundaries and look for members with desired experiences,
   e.g. carer, mental health, learning disabilities etc?

b. Other Trusts have a NED who act as a champions on the Board on the
Governsor’s behalf.

c. Re name MPEG to Public & Members Engagement Group (PMEG)
   considered more apt to the groups identity.

d. Terms of reference for MPEG were revised to reflect what the group is
   presently doing.

e. More attention to be given to the run up to next year Governors election. It was
   recognised that more work needs to be done in Exeter and South Devon.

Patient Safety and Quality Working Group (update from Faye Doris)

Purpose of the working group: To contribute a lay/governor perspective to the
Trust’s Engagement and Experience Committee and to the development of the
Trust’s Quality Account submissions and future priorities on quality.

Introduction: The Working Group met once since the last CoG meeting and was
attended by nine governors, Melanie Holley and Lisa Vogwill (Acting Lead Nurse
Safety and Patient Experience) for part of the meeting.
Key Issues:

Received were

- The update on the Trust’s Patient Safety Programme with several projects continuing in 2018/2019, plus particular focus on sepsis and maternity projects, supporting national priorities.
- Patient Experience Committee (PEC) feedback: The external work by the University of Exeter’s Health and Social Care Research Group on patient stories to provide meaningful and representative feedback.
- The Spiritual Care Policy.
- The Voluntary Services internal audit – Compliance with pre-recruitment checks is strong. Supervision of volunteers is resource intensive but dedicated support should be considered. A volunteer strategy would be received by PEC in February 2019.
- The outcome of the survey on mixed sleeping accommodation on Bramble Ward which was reassuring.
- An AOB re Brexit and the risk of the unavailability of consumables.

Forward View

- Consider the experience of the patient at night.

CoG Effectiveness working group (update from Tony Ducker)

Purpose of the working group: To enhance the effectiveness of the CoG by ensuring that its knowledge base, processes and operations are fit for the purpose defined in the Health and Social Care Act 2012.

Update from last meeting:

The group meet on 13 September 2018 following the Document review group meeting of 14 August 2018, which had reviewed The Policy for Remuneration of Governors Expenses and The Governor Working Groups Terms of Reference. Both documents were edited for presentation to the COG at its November 2018 meeting and are attached. The expenses policy is for noting as this document is reviewed and approved by the Remuneration Committee (comprised Non-Executive Directors). The Terms of Reference are presented for approval.

A detailed discussion was held with regard to how Governors access relevant documents now the Governors’ secure website was no longer available. It was also discussed as to how to make sure Governors were aware of which documents were relevant to them.

It was agreed that action to be taken to encourage new Governors to attend working group meetings. It was planned to catch up and get ahead on the documents to be reviewed, to review the new integrated performance report (presented for the first time to the November 2018 meeting) with regards to which parts were required by the COG, and to review the election of Governors and their constituencies.

The point was made that while the document reviews were the responsibility of the effectiveness working group other interested governors could join specific reviews.
The Group’s next meeting is on Thursday 13 December 2018 09.30–10.30 room E218.

**Recommendation:** That the Council of Governors notes the report and approves the Working Groups Terms of Reference.

**Presented by:**
- Peta Foxall, Lead Governor
- Kay Foster, Public & Member Engagement
- Faye Doris, Patient Safety & Quality
- Tony Ducker, CoG Effectiveness
Governors Working Groups
Terms of Reference

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Council of Governors |
| Date of approval: | 19 January 2015 |
| Date of Issue: | 19 January 2015
13 September 2018 |
| Date of next review: | January 2018 |
1. **Accountability**

1.1 The Governor Working Groups are accountable to the Council of Governors (CoG). The Group Chair or Vice Chair shall report to the Coordinating Committee and at each CoG meeting.

2. **Purpose**

2.1 There will be three Working Groups with the following areas of interest:

a. CoG Effectiveness
b. Patient Safety and Quality
c. Member and Public Engagement

The purposes and detailed tasks associated with each of these Groups are set out at the attached Appendix.

3. **Membership**

3.1 Each Group shall normally consist of up to ten governors including the Chairman of each Group. Membership of each Group will be normally by the declared preference of each Governor. Governors are to be encouraged to participate in at least one Group.

3.2 The Chair/Vice Chair of each Group shall be elected/re-elected each year by the Group at the second group meeting in the Governor year and may hold office for up to three years.

3.3 In the event of the Chair standing down during their time in office the Vice Chair will act as Chair until the next routine round of elections. This period of acting Chair will not count as part of their three years.

3.4 Individual Governors or Trust staff may be co-opted for specific projects.

3.5 Membership of the Groups will be flexible according to the particular task in hand and individual Governors’ particular knowledge or interests, and reviewed at least annually.

4. **A Quorum**

4.1 A quorum will consist of at least 50% of each Group or 3 members whichever is the greater.
5. Procedures

5.1 Meetings frequency and format will reflect the needs of particular tasks.

5.2 The Corporate Affairs Team will provide administrative support to the CoG Effectiveness Working Group and the Patient Safety & Quality Working Group. The Engagement Office will provide administrative support to the Member & Public Engagement Working group. In keeping with B5.4 The NHS Foundation Trust Code of Governance - updated July 2014

5.3 Key decisions and actions only will be recorded. Draft action notes will be distributed to the Group normally within two weeks from the date of the meeting. These will be approved by the appropriate Group Chairman and made available via e-mail, as soon as possible on the Governors’ secure web site.

5.4 Any member of CoG may raise an issue with the appropriate Group Chair, who will decide whether or not the issue shall be included in the Group’s business. If an issue, submitted to the Chair of a Group, is not accepted, the individual may take the matter to the Lead Governor/Deputy Lead Governor, for the matter to be considered for inclusion. If the issue is accepted, the individual raising the issue shall be invited to attend the next Group meeting.

6. Frequency of Meetings

6.1 Meetings will normally be held as determined by the Group in order to facilitate its business, with a minimum of three-four meetings each Governor year. One meeting will be held within three month following the election of new Governors, to which new Governors will be invited to attend.

7. Duties and Responsibilities

7.1 The Groups shall promptly undertake tasks within their remit and regularly report progress to the Coordinating Group and CoG. Information shall be circulated if issues arise between reports.

7.2 Each The Groups shall make whatever proposals to the CoG they deem appropriate, for CoG approval.

7.3 The Groups will also use Development Days as required as a means of communicating/progressing individual proposals specific topics.

8. Review

8.1 A full assessment on the progress of the Governor Working Groups and the Annual Business Plan will take place in March each year by CoG.
Appendix

Working Groups

1. CoG Effectiveness

Purpose:

To enhance the effectiveness of the CoG by ensuring that its knowledge base, processes and operations are fit for the purpose defined in the Health and Social Care Act 2012.

This group will address issues such as:

- Ensuring that CoG receives relevant & timely information
- Identifying the Governor’s continuing development needs (reworded)
- Reviewing CoG’s working groups and committees and structures
- Ensuring that the CoG is equipped to assure itself that the Board is operating effectively and appropriately managing corporate risk
- Enhancing the CoG relationship with the Board
- Overseeing CoG effectiveness review
- Review of the Constitution.

2. Patient Safety & Quality Group

Purpose:

To contribute a lay/Governor perspective to the Trust’s Engagement & Experience Committee and contribute to the development of the Trust’s Quality Account submissions and future priorities on quality.

This group will address issues such as:

- Coordinate/prepare response to the Quality Account
- Contribute any requirement for Governor input into Care Quality Commission (CQC) outcomes
- Promote or contribute to any Trust initiatives on patient safety and quality issues
- Governor representation on and feedback from working groups including PLACE.

3. Public & Member Engagement Group

Purpose: To ensure that the Council of Governors is meeting its duty to represent the interests of members of the Trust and the interests of the public and contribute a Governor perspective to the development of the Trust’s engagement work.

This group will address issues such as:

- Development, with the Engagement Team, of ways to engage with members and public including planning, implementation and evaluation of Public and members engagement events, surveys etc
- Ensuring that the CoG is adequately representing the voice of members and the public to the Trust and, in particular, the Board.
- Two way exchange of information between the Trust and the public
- To work to support local community initiatives to enhance health and wellbeing
# APPROVED DOCUMENT COVER SHEET

## POLICY FOR REMUNERATION OF GOVERNORS EXPENSES

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<tr>
<td>Sponsor:</td>
<td>Chairman</td>
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<tr>
<td>Approval authority</td>
<td>Executive Remuneration Director Committee</td>
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<tr>
<td>Date of approval:</td>
<td>11 April 2016</td>
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<td>Date of Issue:</td>
<td>12 April 2016</td>
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<td>Date of next review:</td>
<td>April 2018 - September 2021</td>
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POLICY FOR REMUNERATION OF GOVERNORS' EXPENSES

1. INTRODUCTION

The purpose of this Policy is to state the circumstances under which Governors may be reimbursed for legitimate and necessary travel expenses described below incurred in the course of their duties as Governors of the Royal Devon & Exeter NHS Foundation Trust.

2. AUTHORITY

The policy is approved by the Executive Director Remuneration Committee (EDRC).

3. PRINCIPLES

a. The post of Governor of a Foundation Trust is voluntary, and it is a fundamental principle that no Governor shall receive any form of salary for being a Governor. However, it is not the intention that Governors should fund the cost of reasonable travel expenses incurred as a result of their duties.

b. Expenses will only be reimbursed for the following expenditure:

i. Travel expenses by the most reasonable means from the Governor’s permanent home address (HOME) to the RD&E (BASE) (or other Trust appointed location if not on RD&E premises) to attend Council, working groups, their designated sub groups, committee meetings, Development Days, rostered observations of the Board of Directors meetings, and Board committees as arranged by the Trust, and where applicable national and regional Governor network meetings, attendance at which has been authorised by the Trust.

ii. Mileage rate, where authorised, will be consistent with the HMRC rates show in Appendix 1 and as updated on the HMRC website. The use of HMRC rates is intended to avoid tax declaration issues for Governors but Governors remain responsible for ensuring that their tax affairs are in order and for checking their personal position with HMRC.

iii. Attendance at any meeting in the capacity as a Governor outside of those mentioned above must be authorised by the Trust (Engagement Team) before any travel expense is incurred. Governors who attend meetings without specific invitation or prior agreement of the Trust will not receive reimbursement.

iv. Parking and toll charges incurred as a direct result of attending the above meetings.
v. Travel by bus or train will be reimbursed as per the ticket amount (the ticket must be retained as proof of purchase and attached to the claim form).

vi. Reimbursed travel by taxi is not permitted unless in exceptional circumstances and or authorisation is received from the Trust in advance.

vii. Subsistence allowance where the Governor is away from home either, between 5 and 10 hours (current rate £5 max), or over 10 hours (current rate £15 max), for the purpose of attending one of the above meetings, and where no refreshment is provided at the Trust’s expense. Unless in exceptional circumstances, overnight expenses will not be paid. Periods away from home are calculated from the times of leaving and returning home.

viii. Expenses involved if a Governor is required to employ a registered carer to look after a dependent relative whilst the Governor is on foundation trust business as described above. The rate will be set at the National Living Wage for persons aged 25 years and over, and will only be payable on production of receipted invoices for the services.

ix. When travelling Governors should only claim for the return distance between HOME and BASE, or the distance actually travelled if this is less. Only HOME to BASE travel expenses will be paid when the journey starts from a location other than the Governor’s home address (if further away from BASE than HOME), unless in exceptional circumstances and authorisation is received from the Trust.

x. Governors will also be reimbursed at the HMRC rate per passenger per business mile for carrying fellow Governors in a car on journeys which are also approved journeys for them when authorised.

c. The Trust supports paperless working with information provided electronically to Governors and in hard copy for formal meetings on request. Where necessary, a limited number of documents such as the Annual Report will be printed for circulation amongst Governors. Expenses for stationery will not be paid to Governors.

4. SUBMISSION OF CLAIMS

a. Governors remain wholly responsible for the compilation and accuracy of their claims. Claim forms are available on the Governors website or from the Engagement Office. When completed they should be passed to the Engagement Office for authorisation, who will forward them to RD&E Cash Management for payment.
b. Claims will only be reimbursed direct to a nominated bank or building society account (the account number and sort code of which must be stated on each claim) in accordance with the Trust’s accounting timetable.

c. All claims must include receipts for individual items such as public transport, car parking and subsistence.

d. Claims should be submitted on a regular basis and no later than within six months of the expense being incurred to allow for effective management of budgets. Claims over six months old will be submitted to the Chief Financial Officer for consideration of whether or not payment will be made. Claims over 12 months old will not be paid.

5. REVIEW

The Trust will review this policy every three years and make recommendations for any changes to the EDRC.

Appendix 1

The table below shows the rates at August 2013. These rates may be increased by HMRC from time to time in which case the rates shown on the HMRC website will apply http://www.hmrc.gov.uk/rates/travel.htm.

<table>
<thead>
<tr>
<th>Approved mileage rates</th>
<th>First 10,000 business miles in the tax year</th>
<th>Each business mile over 10,000 in the tax year</th>
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<tbody>
<tr>
<td>Cars and vans</td>
<td>45p</td>
<td>25p</td>
</tr>
<tr>
<td>Motorcycles</td>
<td>24p</td>
<td>24p</td>
</tr>
<tr>
<td>Bicycles</td>
<td>20p</td>
<td>20p</td>
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Passenger payments - cars and vans

5p per passenger per business mile for carrying fellow governors / members / staff in a car or van on journeys which are also approved journeys for them.

Table 1 From HMRC website http://www.hmrc.gov.uk/rates/travel.htm accessed July 2013
**COUNCIL OF GOVERNORS PAPER**

**Meeting date:** 26 November 2018  
**Agenda item:** 8.3, Public meeting

<table>
<thead>
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<th>Title:</th>
<th>REVIEW OF THE CONSTITUTION</th>
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<tr>
<td><strong>Purpose:</strong></td>
<td>To present to the Council of Governors (CoG) the Trust Constitution and its annexes.</td>
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**Background:**  
A revised Constitution was presented to the CoG and the Board at the Joint Development Day in July 2018. This was accepted; however it was noted that annexes 2-4 were not presented (annex 1 ‘Areas of the Trust’ was presented). It was agreed that the approved Constitution and its annexes would be presented to the Council of Governors for information.

**Key Issues:**  
The following were not presented to the CoG and Board at the July 2018 Development Day.

**Annex 2 – Election Rules**  
These were last reviewed in 2015, following changes to the Model Election Rules. The Election Rules was approved by CoG at its July 2015 meeting. A review of the Election Rules is in the work plan for the CoG Effectiveness Working Group.

The CoG is asked to note that the Rules of Procedure are due for review in January 2019.

**Annex 4 – Standing Orders of the Board**  
These were approved by the Trust Board in November 2017 and are due for review in 2020.

**Recommendation:** That the Council of Governors note the Constitution and its annexes.

**Presented by:** Melanie Holley, Head of Governance
CONSTITUTION OF
ROYAL DEVON AND EXETER NHS FOUNDATION TRUST
(A PUBLIC BENEFIT CORPORATION)

Updated July / August 2018
Royal Devon and Exeter NHS Foundation Trust Constitution

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CONSTITUTION

1 Interpretation and definitions

In this constitution:

- references to legislation include all amendments, replacements or re-enactments made;
- headings are for ease of reference only and are not to affect interpretation;
- words importing the masculine gender only shall include the feminine gender;
- words importing the singular shall include the plural, and vice-versa;
- unless otherwise stated, words or expressions bear the same meaning as in the National Health Service Act 2006.

1.1 The 2006 Act is the National Health Service Act 2006 (as amended, including by the 2012 Act);

1.2 The 2012 Act is the Health and Social Care Act 2012;

1.3 Constitution means this constitution and all annexes to it;

1.4 NHSI is the body corporate known as NHSI, as provided by Section 61 of the 2012 Act;

1.5 The Accounting Officer is the person who from time to time discharges the functions specified in paragraph 25(5) of Schedule 7 to the 2006 Act;

1.6 “Annual Members’ Meeting” means that meeting held annually at which the members of the Trust are presented with certain statutory reports;

1.7 “Appointed Governors” means those Governors appointed by the appointing organisations;

1.8 “Appointing organisations” means those organisations named in this constitution that are entitled to appoint Governors;

1.9 “Areas of the Trust” means the three areas specified in Annex 1

1.10 “Board of Directors” means the Board of Directors as constituted in accordance with this constitution;

1.11 “Council of Governors” means the Council of Governors as constituted in this constitution, which has the same meaning as “Council of Governors” in the 2006 Act;

1.12 “Director” means a member of the Board of Directors;

1.13 “Elected Governors” means those Governors elected by the public constituencies and the staff constituency;
1.14 “External auditors” means such auditors other than the financial auditor whom the Trust may appoint from time to time to report on various aspects of its activities;

1.15 “Financial year” means each period of twelve months beginning with 1 April and ending with the next 31 March.

1.16 “General meeting” means a routine (usually quarterly) meeting of the Council of Governors;

1.17 “Governor Year” means the year which runs from the Annual Members Meeting to Annual Members Meeting (September to September).

1.18 “Local Authority Governor” means a member of the Council of Governors appointed by Devon County Council;

1.19 “Member” means a member of the Trust;

1.20 “Public Governor” means a member of the Council of Governors elected by the members of one of the public constituencies;

1.21 “Secretary” means the Secretary of the Trust or any other person appointed to perform the duties of the Secretary, including a joint, assistant or deputy secretary;

1.22 “Staff Governor” means a member of the Council of Governors elected by the members of the staff constituency;

1.23 “the Trust” means the Royal Devon and Exeter NHS Foundation Trust;

1.24 “University Governor” means a member of the Council of Governors appointed by University of Exeter Medical School.

2 Name

2.1 The name of this Trust is to be “Royal Devon and Exeter NHS Foundation Trust” (“The Trust”).

3 Principal Purpose

3.1 The Trust’s principal purpose is the provision of goods and services for the purposes of the health service in England.

3.2 The Trust does not fulfil its principal purpose unless, in each financial year, its total income from the provision of goods and services for the purposes of the health service in England is greater than its total income from the provision of goods and services for any other purposes.
3.3 The Trust may provide goods and services for any purposes related to the provision of services provided to individuals for or in connection with the prevention, diagnosis or treatment of illness and the promotion and protection of public health.

3.4 The Trust may also carry on activities other than those mentioned in the above paragraph for the purpose of making additional income available in order to better carry on its principal purpose.

4 Powers

4.1 The powers of the Trust are set out in the 2006 Act. All the powers of the Trust shall be exercised by the Board of Directors on behalf of the Trust.

4.2 Any of these powers may be delegated to a committee of Directors or to an Executive Director.

5 Membership – General

5.1 The members of the Trust are those individuals whose names are entered in the register of members. The Trust shall at all times strive to ensure that taken as a whole its actual membership is representative of those eligible for membership. To this end the Trust shall at all times have in place and pursue a membership strategy which shall be reviewed from time to time, and at least every three years.

6 Eligibility for Membership

6.1 Every member is to be either a member of one of the public constituencies, or a member of the staff constituency.

6.2 Subject to this constitution, membership is open to any individual who:

   6.2.1 is over twelve years of age;

   6.2.2 is entitled under this constitution to be a member of one of the public constituencies, or the staff constituency; and

   6.2.3 in the case of public constituencies, completes a membership application form.

7 Application for membership

7.1 An individual who is eligible to become a member of the Trust may do so on application to the Trust.
8 Public Constituencies

8.1 There are three public constituencies corresponding to the three areas of the Trust specified in Annex 1. Those individuals who live in an area specified as an area for any public constituency are referred to collectively as the Public Constituency. Membership of a public constituency is open to individuals who:

8.1.1 live in the relevant area of the Trust;
8.1.2 are not a member of another public constituency; and
8.1.3 are not eligible to be members of the staff constituency.

8.2 The minimum number of members in each of the public constituencies is to be six.

9 Staff Constituency

9.1 An individual who is employed by the Trust under a contract of employment with the Trust may become or continue as a member of the trust provided:

9.1.1 they are employed under a contract of employment by the Trust which has no fixed term or a fixed term of at least 12 months; or
9.1.2 they have been continuously employed by the Trust for at least 12 months; or
9.1.3 they are not so employed but who nevertheless exercise functions for the purposes of the Trust; and who have exercised the functions for the purposes of the Trust for a continuous period of at least 12 months. For the avoidance of doubt, this does not include those who assist or provide services to the Trust on a voluntary basis.

9.2 Those individuals who are eligible for membership of the Trust by reason of the previous provisions are referred to collectively as the Staff Constituency.

9.3 The minimum number of members in the Staff Constituency is to be 20.

10 Automatic membership by default – staff

10.1 An individual who is:

10.1.1 eligible to become a member of the Staff Constituency; and
10.1.2 invited by the Trust to become a member of the Staff Constituency;

shall become a member of the Trust as a member of the Staff Constituency without an application being made, unless he informs the Trust that he does not wish to do so.

11 Termination of membership

11.1 A member shall cease to be a member if:

11.1.1 they resign by notice to the Secretary;

11.1.2 they cease to be entitled under this constitution to be a member of any of the public constituencies or the staff constituency; or

11.1.3 it appears to the Secretary that they no longer wish to be a member of the Trust, and after enquiries, they fail to establish that they wish to continue to be a member of the Trust.

11.2 A member may be expelled by a resolution approved by not less than two-thirds of those Governors present and voting at a meeting of the Council of Governors. No person who has been expelled from membership is to be re-admitted except by a resolution carried by the votes of two-thirds of the members of the Council of Governors present and voting at a General Meeting.

12 Annual Members' Meeting

12.1 The Trust shall hold an annual meeting of its members (‘Annual Members’ Meeting’). The Annual Members’ Meeting shall be open to members of the public.

13 Council of Governors

13.1 The Trust is to have a Council of Governors, which shall comprise both elected and appointed Governors. It is to consist of Public Governors, Staff Governors, a Local Authority Governor, and a University Governor.

13.2 The Trust shall seek to ensure, subject to the 2006 Act, that the composition of the Council of Governors meets the following requirements:

13.2.1 the interests of the community served by the Trust are appropriately represented;
13.2.2 more than half the members of the Council of Governors will be elected by members of the public constituencies; and

13.2.3 the level of representation of the public constituencies, the staff constituency and the appointing organisations strikes an appropriate balance having regard to their legitimate interest in the Trust’s affairs.

14 Composition of the Council of Governors

14.1 The Council of Governors of the Trust is to comprise nineteen Public Governors, from the following public constituencies:

14.1.1 Mid North West Devon and Cornwall – five Public Governors;

14.1.2 Exeter and South Devon – seven Public Governors; and

14.1.3 East Devon, Dorset, Somerset and the Rest of England – seven Public Governors;

In the event of changes to local authority boundaries, the public constituency boundaries will automatically be altered to accord with these changes.

14.2 Five Staff Governors from the staff constituency.

14.3 One local authority Governor to be appointed by Devon County Council.

14.4 One University Governor to be appointed by University of Exeter Medical School.

14.5 The members of the Council of Governors, other than the appointed members, shall be chosen by election by their constituency

15 Process for electing Public and Staff Governors

15.1 Public Governors are to be elected by the members of their public constituencies, and Staff Governors are to be elected by the members of the staff constituency.

15.2 If contested, the elections must be by secret ballot.

15.3 Elections shall be carried out in accordance with the rules set out in Annex 2 using the first past the post system.

15.4 A member of a public constituency may not vote at an election unless before they vote they have made a declaration in the form specified by the Council of Governors that they are qualified to vote as a member
of the relevant constituency. It is an offence knowingly or recklessly to make such a declaration which is false in a material particular.

16 Appointment of Local Authority Governor

16.1 A Local Authority Governor is to be appointed by Devon County Council, in accordance with a process agreed with the Secretary.

17 Appointment of University Governor

17.1 A University Governor is to be appointed by the University of Exeter Medical School, in accordance with a process agreed with the Secretary.

18 Appointment of alternate Governors

18.1 At the time of appointing an appointed Governor the appointing body may also appoint a named alternate Governor who may attend any meeting of the Governors in the place of the appointed Governor, and exercise all the rights of the appointed Governor. Any change to the alternate Governor shall be notified in writing to the Secretary.

19 Election of Lead Governor and Deputy Lead Governor of the Council of Governors

19.1 The Council of Governors shall elect one of the Public Governors to be Lead Governor of the Council of Governors and another one of the Public Governors to be Deputy Lead Governor of the Council of Governors.

20 Council of Governors - tenure

20.1 All governors may hold office for a period of up to 3 years, subject to paragraph 20.2 below.

20.2 The Chair may, having consulted the Lead Governor, exercise his discretion, acting reasonably in all the circumstances, apply a term of office shorter than 3 years for a new elected or appointed Governor for the purposes of seeking to achieve annual elections and continuity amongst the members of the Council of Governors including without limitation in the following circumstances:

- a Governor being removed from office in accordance with the terms of this constitution
- the death or incapacity of a Governor
- the resignation of a Governor
- in the case of an appointed Governor, that appointing organisation ceasing to exist or revoking the appointment of such Governor.

20.3 An elected Governor shall cease to hold office if he ceases to be a member of the constituency or class by which he was elected.

20.4 An appointed Governor shall cease to hold office if the appointing organisation withdraws its sponsorship.

20.5 An elected Governor shall be eligible for re-election at the end of his term.

20.6 An appointed Governor shall be eligible for re-appointment at the end of his term.

20.7 A Governor may, if re-elected or re-appointed for more than one term of office, hold office for a maximum of nine years.

21 Eligibility to be an Elected/ Appointed Governor

21.1 A person may not become a Governor of the Trust, and if already holding such office will immediately cease to do so, if:

21.1.1 Save for the Chair, they are a Director of the Trust, or a Governor or Director of another NHS Foundation Trust;

21.1.2 they are under sixteen years of age;

21.1.3 being a member of a public constituency, they are or were entitled to be a member of the staff constituency at any point during the preceding two years;

21.1.4 they have been adjudged bankrupt or their estate has been sequestrated and in either case they have not been discharged;

21.1.5 they have made a composition or arrangement with, or granted a Trust deed for, their creditors and have not been discharged in respect of it;

21.1.6 they have within the preceding five years been convicted in the British Islands of any offence, if a sentence of imprisonment (whether suspended or not) for a period of not less than three months (without the option of a fine) was imposed on them;

21.1.7 they are the subject of a sex offender order;
21.1.8 they have within the preceding two years been dismissed, otherwise than by reason of redundancy, from any paid employment with a health service body;

21.1.9 they are a person whose tenure of office as the Chair or as a member or Director of a health service body has been terminated on the grounds that their appointment is not in the interests of the health service, for non-attendance at meetings, or for non-disclosure of a pecuniary interest; or

21.1.10 they are no longer a member of the Trust.

22 Council of Governors – duties of Governors

22.1 The general duties of the Council of Governors are:

22.1.1 to hold the Non-Executive Directors individually and collectively to account for the performance of the Board of Directors; and

22.1.2 to represent the interests of the members of the Trust as a whole and the interests of the public.

22.2 The Trust must take steps to secure that the governors are equipped with the skills and knowledge they require in their capacity as such.

23 Termination of office and removal of Governors

23.1 A person holding office as a Governor shall cease to do so if:

23.1.1 they resign by notice in writing to the Secretary;

23.1.2 in the case of an elected Governor, they cease to be a member of the Trust;

23.1.3 in the case of an appointed Governor, the appointing organisation terminates the appointment;

23.1.4 they are removed from the Council of Governors under the provisions of 23.2 or 23.4 below;

23.1.5 they refuse without reasonable cause to undertake any training which the Council of Governors require all Governors to undertake; or

23.1.6 they fail to abide by the Code of Conduct for Governors which they agreed to abide by when signing the nomination form to stand for election as a Governor; or
23.1.7 they fail without reasonable cause to sign and deliver to the Secretary a statement confirming their continuing eligibility to vote.

23.2 A Governor who:

23.2.1 fails to attend two general meetings in any Governor Year shall cease to be a Governor, unless the other Governors are satisfied that:

   23.2.1.1 the absences were due to reasonable causes;
   
   and
   
   23.2.1.2 they will be able to start attending meetings of the Trust again within such a period as the other Governors consider reasonable.

23.3 The Council of Governors Coordinating Committee shall monitor attendance for this purpose and report to the Council of Governors.

23.4 A Governor may be removed from the Council of Governors by a resolution approved by not less than three quarters of the remaining Governors on the grounds that they fail to adhere to the Standard Operating Procedures (SOPs).

24 Vacancies amongst Governors

24.1 Where a vacancy arises on the Council of Governors for any reason other than expiry of term of office, the provisions of 24.2 and 24.3 apply.

24.2 Where the vacancy arises amongst the appointed Governors, the Secretary shall request that the appointing organisation appoints a replacement.

24.3 Where the vacancy arises amongst the elected Governors, the Council of Governors shall be at liberty:

   24.3.1 to defer the by-election until the next round of routine elections; or
   
   24.3.2 having regard to the number of governors remaining in post to represent that constituency, to call a by-election to fill the seat for the remainder of that term of office.

25 Expenses and remuneration of Governors
25.1 The Trust will reimburse Governors for reasonable travelling and other costs and expenses incurred while carrying out agreed duties as a Governor at such rates as determined by the Governors’ Expenses Policy.

25.2 Governors are not entitled to receive remuneration.

26 Meetings of the Council of Governors

26.1 The Council of Governors is to meet at least quarterly in each Governor year. Save in the case of emergencies or the need to conduct urgent business, the Secretary shall give at least seven days written notice of the date and place of every meeting of the Council of Governors to all Governors. As it is likely to be a confidential matter, papers may not be available before the meeting Notice will also be published on the Trust’s website.

26.2 Meetings of the Council of Governors shall be open to members of the public. Members of the public may be excluded from a meeting for special reasons. The Chair may exclude anyone other than a Governor from a meeting of the Council of Governors if they are interfering with or preventing the proper conduct of the meeting.

26.3 Ten governors shall comprise a quorum.

26.4 The Chair of the Trust or, in their absence, the Vice-Chair of the Trust. In the absence of the Vice Chair of the Trust, the Lead Governor shall preside at meetings of the Council of Governors. If the person presiding at any such meeting has a conflict of interest in relation to the business being discussed, the Lead Governor of the Council of Governors will chair that part of the meeting. If, in these circumstances, neither the Chair of the Trust nor the Lead Governor of the Council of Governors is available, those Governors present shall elect one of their number to be Chair for the item under discussion.

26.5 The Council of Governors may invite the Chief Executive or any other member or members of the Board of Directors, or a representative of the Trust’s auditors or other advisors to attend a meeting of the Council of Governors.

26.6 For the purposes of obtaining information about the Trust’s performance of its functions or the Directors’ performance of their duties (and deciding whether to propose a vote on the Trust’s or Directors’ performance), the Council of Governors may require one or more of the Directors to attend a meeting.

26.7 Subject to this constitution, including the following provisions of this paragraph, questions arising at a meeting of the Council of Governors shall be decided by a majority of votes.

26.7.1 In case of an equality of votes the Lead Governor of the Council of Governors shall have a casting vote.

26.7.2 No resolution of the Council of Governors shall be passed if it is unanimously opposed by all of the Public Governors present.
26.8 The Council of Governors may appoint committees consisting of its members, Directors, and other persons to assist the Council in carrying out its functions.

26.9 The Council of Governors may, through the Secretary, request that advisors assist them or any committee they appoint in carrying out their functions.

26.10 All decisions taken in good faith at a meeting of the Council of Governors or of any committee shall be valid even if it is discovered subsequently that there was a defect in the calling of the meeting, or the appointment of the Governors attending the meeting.


27 Disclosure of Interests

27.1 If a Governor has a pecuniary, personal or family interest, whether that interest is actual or potential and whether that interest is direct or indirect, in any proposed contract or other matter which is under consideration or is to be considered by the Council of Governors, the Governor shall disclose that interest to the members of the Council of Governors as soon as he becomes aware of it. The Rules of Procedure for the Council of Governors shall make provision for the disclosure of interests and arrangements for the exclusion of a Governor declaring any interest from any discussion or consideration of the matter in respect of which an interest has been disclosed.

28 Council of Governors – Referral to the Panel

28.1 In this paragraph, the Panel means a panel of persons appointed by NHSI to which a governor of an NHS Foundation Trust may refer a question as to whether the trust has failed or is failing—

28.1.1 to act in accordance with its constitution; or

28.1.2 to act in accordance with provision made by or under Chapter 5 of the 2006 Act.

28.2 A governor may refer a question to the Panel only if more than half of the members of the Council of Governors voting approve the referral.

29 Board of Directors
29.1 The Trust is to have a Board of Directors. It is to consist of Executive and Non-Executive Directors. At all times the Non-Executive Directors including the Chair shall comprise the majority of the Board. The Board is to comprise:

29.1.1 the following Non-Executive Directors:

29.1.1.1 a Chair, who is to be appointed (and may be removed) by the Council of Governors at a General Meeting;

29.1.1.2 up to six further Non-Executive Directors who are to be appointed (and may be removed) by the Council of Governors at a General Meeting, and one of whom is ratified by the Council of Governors as Vice-Chair of the Trust following the recommendation of the Board of Directors; A Senior Independent Director will be appointed by the Board in consultation with the Council of Governors.

in each case subject to the approval of a majority of the Council of Governors (in the case of an appointment) present and voting at the meeting, and a three-quarters majority of all of the members of the Council of Governors (in the case of a removal) voting at the meeting.

29.1.2 the following Executive Directors:

29.1.2.1 a Chief Executive (who is the accounting officer), who is to be appointed (and may be removed) by the Non-Executive Directors, and whose appointment is subject to the approval of a majority of the members of the Council of Governors present and voting at a meeting;

29.1.2.2 a Finance Director, a registered medical practitioner or a registered dentist (within the meaning of the Dentists Act 1984), a registered nurse or registered midwife, and not more than two other Executive Directors, all of whom are to be appointed (and removed) by a committee comprising the Chair, the Chief Executive and the other Non-Executive Directors.

29.2 If the Chair is unable to discharge their office as Chair of the Trust, the Vice-Chair shall be acting Chair of the Trust.

30 Board of Directors – General Duty

30.1 The general duty of the Board of Directors and of each director individually, is to act with a view to promoting the success of the Trust so as to maximise the benefits for the members of the Trust as a whole and for the public.
31 Qualification for Appointment as a Non-Executive Director

31.1 Only a member of a public constituency is eligible for appointment as a Non-Executive Director.

32 Procedure for Appointment of Chair and Other Non-Executive Directors

32.1 Non-Executive Directors are to be appointed by the Council of Governors using the following procedure:

32.1.1 The Council of Governors will maintain a policy for the composition of the Non-Executive Directors, which they shall review from time to time and not less than every three years.

32.1.2 The Board of Directors will identify the skills and experience required for Non-Executive Directors.

32.1.3 The Council of Governors will elect a Nominations Committee to select candidates to be Chair and Non-Executive Directors, for subsequent recommendation to, and appointment by, the Council of Governors. The Nominations Committee will take account of the policy maintained by the Council of Governors and the skills and experience required. The nominations committee will be advised by the Chief Executive and one or two independent assessors.

33 Procedure for the Appointment of Chief Executive and Other Executive Directors

33.1 The Non-Executive Directors shall appoint or remove the Chief Executive with the approval of a majority of the Council of Governors voting at a general meeting.

33.2 A committee comprising the Chair, the Chief Executive and the other Non-Executive Directors shall appoint or remove the other Executive Directors.

34 Removal of Directors

34.1 Executive and Non-Executive Directors may be removed as follows:

34.1.1 the Chair or any other Non-Executive Director may be removed upon the approval of three quarters of the members of the Council of Governors voting at a general meeting;

34.1.2 the Chief Executive may be removed by the Non-Executive Directors;
34.1.3 the Executive Directors (other than the Chief Executive) may be removed by a committee comprising the Chair, the Chief Executive and the other Non-Executive Directors.

35 Directors’ Terms Of Office

35.1 The Chair and the Non-Executive Directors:

35.1.1 shall hold office for a period of three years;

35.1.2 are eligible for re-appointment by the Council of Governors at the end of that period. Any re-appointment of a Non-Executive Director shall be subject to the procedures in 32 above and satisfactory appraisal;

35.1.3 shall not normally remain in office for more than six consecutive years;

35.1.4 in exceptional circumstances may be re-appointed beyond the usual six consecutive years maximum for up to a further year. With the approval of the Council of Governors or a maximum of a further term of 3 years at the request and approval of NHSI, up to an absolute maximum of 9 years.

35.1.5 Should a Non-Executive Director apply to become Chair of the Trust and be appointed their term of office as Chair starts when taking up their new role.

35.2 The other terms and conditions for Chair and Non-Executive Directors shall be decided by the Council of Governors at a General Meeting following recommendations by a Non-Executive Director Remuneration Committee elected by the Council of Governors.

36 Disqualification

36.1 A person may not become or continue as a Director of the Trust if:

36.1.1 they are a member of the Council of Governors;

36.1.2 they have been adjudged bankrupt or their estate has been sequestrated and in either case they have not been discharged;

36.1.3 they have made a composition or arrangement with, or granted a Trust deed for, their creditors and have not been discharged in respect of it;

36.1.4 they have within the preceding five years been convicted in the British Islands of any criminal offence, when a sentence of imprisonment (whether suspended or not) for a period of three months or more (without the option of a fine) was imposed;
36.1.5 they are the subject of a sex offender order;
36.1.6 they are the subject of a disqualification order made under the Company Directors Disqualification Act 1986;
36.1.7 in the case of a Non-Executive Director, they cease to be a member of a public constituency
36.1.8 they are a person whose tenure of office as a Chair or as a member or Director of a health service body has been terminated on the grounds that their appointment is not in the interests of the health service, for non-attendance at meetings, or for non-disclosure of a pecuniary interest;
36.1.9 they have within the preceding two years been dismissed, otherwise than by reason of redundancy, from any paid employment with a health service body;
36.1.10 in the case of a Non-Executive Director they have refused without reasonable cause to fulfil any training requirement established by the Board of Directors;
36.1.11 they have failed without reasonable cause to sign and deliver to the Secretary a statement in the form required by the Board of Directors confirming acceptance of the code of conduct for Directors.

37 Committees and Delegation

37.1 The Board of Directors may delegate any of its powers to a committee of Directors or to an Executive Director.
37.2 The Board of Directors shall appoint a committee of Non-Executive Directors as an audit committee to perform such monitoring, reviewing and other functions as are appropriate.
37.3 The Board of Directors shall appoint an executive remuneration committee of Non-Executive Directors to decide the remuneration and allowances, and the other terms and conditions of office, of the Executive Directors.

38 MEETING OF DIRECTORS

38.1 Save in the case of emergencies or the need to conduct urgent business, the Secretary shall give to all Directors at least fourteen days written notice of the date and place of every meeting of the Board of Directors.
38.2 Meetings of the Board of Directors shall be open to members of the public. Members of the public may be excluded from a meeting for special reasons.
38.3 Before holding a meeting, the Board of Directors must send a copy of the agenda of the meeting to the Council of Governors. As soon
as practicable after holding a meeting, the Board of Directors must send a copy of the minutes of the meeting to the Council of Governors.

38.4 Meetings of the Board of Directors are called by the Secretary, or by the Chair, or by four Directors who give written notice to the Secretary specifying the business to be carried out. The Secretary shall send a written notice to all Directors as soon as possible after receipt of such a request. The Secretary shall call a meeting on at least fourteen but not more than twenty-eight days’ notice to discuss the specified business. If the Secretary fails to call such a meeting then the Chair or four Directors, whichever is the case, shall call such a meeting.

38.5 Seven Directors including not less than two Executive Directors and not less than four Non-Executive Directors (which includes the Chair) shall form a quorum.

38.6 The Board of Directors may agree that its members can participate in its meetings by telephone, video or computer link. Participation in a meeting in this manner shall be deemed to constitute presence in person at the meeting.

38.7 The Chair of the Trust or, in their absence, the Vice-Chair of the Trust, and in their absence one of the other Non-Executive Directors in attendance, is to chair meetings of the Board of Directors.

38.8 Subject to the following provisions of this paragraph, questions arising at a meeting of the Board of Directors shall be decided by a majority of votes.

38.8.1 In case of an equality of votes the Director chairing the meeting shall have a second and casting vote.

38.8.2 No resolution of the Board of Directors shall be passed by a majority composed only of Executive Directors or Non-Executive Directors.

38.9 The Board of Directors is to adopt Standing Orders covering the proceedings and business of its meetings. The proceedings shall not however be invalidated by any vacancy of its membership, or defect in a Director’s appointment.

38.10 The standing orders for the practice and procedure of the Board of Directors are attached at Annex 4.

39 Board of Directors - Conflicts of Interest of Directors

39.1 The duties that a Director of the Trust has by virtue of being a Director include in particular:

39.1.1 A duty to avoid a situation in which the Director has (or can have) a direct or indirect interest that conflicts (or possibly
may conflict) with the interests of the Trust.

39.1.2 A duty not to accept a benefit from a third party by reason of being a Director or doing (or not doing) anything in that capacity.

39.2 The duty referred to in sub-paragraph 39.1.1 is not infringed if:

39.2.1 The situation cannot reasonably be regarded as likely to give rise to a conflict of interest, or

39.2.2 The matter has been authorized in accordance with the Constitution.

39.3 The duty referred to in sub-paragraph 39.1.2 is not infringed if acceptance of the benefit cannot reasonably be regarded as likely to give rise to a conflict of interest.

39.4 In sub-paragraph 39.1.2, “third party” means a person other than

39.4.1 The Trust, or

39.4.2 A person acting on its behalf.

39.5 If a Director of the Trust has in any way a direct or indirect interest in a proposed transaction or arrangement with the Trust, the Director must declare the nature and extent of that interest to the other Directors.

39.6 If a declaration under this paragraph proves to be, or becomes, inaccurate or incomplete, a further declaration must be made.

39.7 Any declaration required by this paragraph must be made before the Trust enters into the transaction or arrangement.

39.8 This paragraph does not require a declaration of an interest of which the Director is not aware or where the Director is not aware of the transaction or arrangement in question.

39.9 A Director need not declare an interest –

39.9.1 If it cannot reasonably be regarded as likely to give rise to a conflict of interest;

39.9.2 If, or to the extent that, the Directors are already aware of it;

39.9.3 If, or to the extent that, it concerns terms of the Director’s appointment that have been or are to be considered:
39.9.3.1 By a meeting of the Board of Directors, or

39.9.3.2 By a committee of the Directors appointed for the purpose under the Constitution.

39.10 A matter shall have been authorised for the purposes of paragraph 39.2.2 if:

39.10.1 the Board of Directors by majority disapplies the provision of the constitution which would otherwise prevent a Director from being counted as participating in the decision-making process;

39.10.2 the Director's interest cannot reasonably be regarded as likely to give rise to a conflict of interest; or

39.10.3 the Director's conflict of interest arises from a permitted cause (as determined by the Board of Directors from time to time).

40 Board of Directors – Remuneration and Terms of Office

40.1 The Council of Governors at a general meeting of the Council of Governors shall decide the remuneration and allowances, and the other terms and conditions of office, of the Chair and the other Non-Executive Directors after considering recommendations from its Non-Executive Director Remuneration Committee.

40.2 The Trust shall establish a committee of Non-Executive Directors to decide the remuneration and allowances, and the other terms and conditions of office, of the Chief Executive and other Executive Directors.

41 REGISTERS

41.1 The Trust is to have:

41.1.1 a register of members showing, in respect of each member, the constituency to which they belong, and, where there are classes, the class to which they belong;

41.1.2 a register of members of the Council of Governors;

41.1.3 a register of Directors;

41.1.4 a register of interests of members of the Council of Governors; and

41.1.5 a register of interests of the Directors.

41.2 The registers shall be made available for inspection by members of the public, except in circumstances prescribed by regulations; and so
far as they are required to be available they are to be available free of charge at all reasonable times.

41.3 The Trust shall not make any part of its registers available for inspection by members of the public which shows details of any member of the Trust, if he so requests.

42 Documents Available for Public Inspection

42.1 The following documents of the Trust are to be available for inspection by members of the public free of charge at all reasonable times, and shall be available on the Trust’s website:

42.1.1 a copy of the current constitution;
42.1.2 a copy of the current Licence;
42.1.3 a copy of the latest annual accounts and of any report of the financial auditor on them;
42.1.4 a copy of the report of any other external auditors appointed by the Council of Governors to review and publish a report on any other aspect of the Trust’s affairs;
42.1.5 a copy of the latest annual report;
42.1.6 a copy of the latest information as to its forward planning
42.1.7 a copy of the Trust’s policy for the composition of the Non-Executive Directors; and
42.1.8 a copy of any notice given under section 52 of the 2006 Act (regulator’s notice to failing NHS foundation Trust).

42.2 The Trust shall also make the following documents relating to a special administration of the Trust available for inspection by members of the public free of charge at all reasonable times:

42.2.1 a copy of any order made under section 65D (appointment of trust special administrator), 65J (power to extend time), 65KC (action following Secretary of State’s rejection of final report), 65L (trusts coming out of administration) or 65LA (trusts to be dissolved) of the 2006 Act.
42.2.2 a copy of any report laid under section 65D (appointment of trust special administrator) of the 2006 Act.
42.2.3 a copy of any information published under section 65D (appointment of trust special administrator) of the 2006 Act.
42.2.4 a copy of any draft report published under section 65F (administrator’s draft report) of the 2006 Act.

42.2.5 a copy of any statement provided under section 65F (administrator’s draft report) of the 2006 Act.

42.2.6 a copy of any notice published under section 65F (administrator’s draft report), 65G (consultation plan), 65H (consultation requirements), 65J (power to extend time), 65KA (Monitor’s decision), 65KB (Secretary of State’s response to Monitor’s decision), 65KC (action following Secretary of State’s rejection of final report) or 65KD (Secretary of State’s response to re-submitted final report) of the 2006 Act.

42.2.7 a copy of any statement published or provided under section 65G (consultation plan) of the 2006 Act.

42.2.8 a copy of any final report published under section 65I (administrator’s final report),

42.2.9 a copy of any statement published under section 65J (power to extend time) or 65KC (action following Secretary of State’s rejection of final report) of the 2006 Act.

42.2.10 a copy of any information published under section 65M (replacement of trust special administrator) of the 2006 Act.

42.3 Any person who requests a copy of or extract from any of the above documents is to be provided with a copy.

42.4 If the person requesting a copy or extract is not a member of the Trust, the Trust may impose a reasonable charge for doing so.

43 Auditors

43.1 The Trust shall have an External Auditor.

43.2 The Council of Governors at a General Meeting shall appoint or remove the Trust’s External Auditor.

44 Accounts

44.1 The Trust must keep proper accounts and proper records in relation to the accounts.
44.2 NHSI may, with the approval of the Secretary of State, give directions to the Trust as to the content and form of its accounts.

44.3 The accounts are to be audited by the Trust's financial auditor.

44.4 The Trust is to prepare, in respect of each financial year, annual accounts in such form as NHSI may, with the approval of the Secretary of State, direct.

44.5 The functions of the Trust with respect to the preparation of the annual accounts shall be delegated to the Accounting Officer.

45 Annual Report,

45.1 The Trust shall prepare an Annual Report and send it to NHSI.

46 FORWARD PLANS

46.1 The Trust shall give information as to its forward planning in respect of each financial year to NHSI.

46.2 The document containing the information with respect to forward planning (referred to above) shall be prepared by the directors.

46.3 In preparing the document, the directors shall have regard to the views of the Council of Governors.

46.4 Each forward plan must include information about:

46.4.1 the activities other than the provision of goods and services for the purposes of the health service in England that the trust proposes to carry on; and

46.4.2 the income it expects to receive from doing so.

46.5 Where a forward plan contains a proposal that the trust carry on an activity of a kind mentioned in sub-paragraph 46.4.1 the Council of Governors must:

46.5.1 determine whether it is satisfied that the carrying on of the activity will not to any significant extent interfere with the fulfilment by the trust of its principal purpose or the performance of its other functions, and

46.5.2 notify the Directors of the Trust of its determination.

47 NON-NHS WORK

47.1 A Trust which proposes to increase by 5% or more the proportion of its total income in any financial year attributable to activities other than the provision of goods and services for the purposes of the health service in England may implement the proposal only if more
than half of the members of the Council of Governors of the Trust voting approve its implementation.

47 Meeting of the Council of Governors to Consider Annual Accounts and Reports

47.1 The following documents are to be presented to the Council of Governors at a general meeting of the Council of Governors:

47.1.1 the annual accounts;
47.1.2 any report of the auditor on them; and
47.1.3 the annual report.

47.2 The documents shall also be presented to the members of the Trust at the Annual Members’ Meeting by at least one member of the Board of Directors in attendance.

47.3 The Trust may combine a meeting of the Council of Governors convened for the purposes of sub-paragraph 46.1 with the Annual Members’ Meeting.

48 Procedures and Protocols

48.1 The Board of Directors shall adopt such procedures and protocols as it shall deem to be appropriate for the good governance of the Trust from time to time.

49 Indemnity

49.1 Members of the Council of Governors and the Board of Directors and the Secretary who act honestly and in good faith will not have to meet out of their personal resources any personal civil liability which is incurred in the execution or purported execution of their functions, save where they have acted recklessly. Any costs arising in this way will be met by the Trust. The Trust may purchase and maintain insurance against any such liability for its own benefit and the benefit of members of the Council of Governors and the Board of Directors.

50 Execution of Documents

50.1 A document purporting to be duly executed under the Trust’s seal or to be signed on its behalf is to be received in evidence and, unless the contrary is proved, taken to be so executed or signed.

50.2 The Trust is to have a seal, but this is not to be affixed except under the authority of the Board of Directors.

51 Mergers etc. and Significant Transactions

51.1 The Trust may only apply for a merger, acquisition, separation or dissolution with the approval of more than half of the members of
the Council of Governors.

51.2 The Trust may enter into a significant transaction only if more than half of the members of the Council of Governors of the Trust voting approve entering into the transaction.

51.3 In paragraph 50.2, the following words have the following meanings:

“Significant transaction” means a transaction which meets any one of the tests below:

51.3.1 the fixed asset test; or
51.3.2 the turnover test; or
51.3.3 the gross capital test (relating to acquisitions or divestments).

The fixed asset test:

51.3.4 is met if the assets which are the subject of the transaction exceed 25% of the fixed assets of the NHS Foundation Trust;

The turnover test:

51.3.5 is met if, following the completion of the relevant transaction, the gross income of the NHS Foundation Trust will increase or decrease by more than 25%;

The gross capital test:

51.3.6 is met if the gross capital of the company or business being acquired or divested represents more than 25% of the capital of the Trust following completion (where “gross capital” is the market value of the relevant company or business’s shares and debt securities, plus the excess of current liabilities over current assets, and the Trust’s capital is determined by reference to its balance sheet);

51.3.7 For the purposes of calculating the tests in this paragraph, figures used to classify assets and profits must be the figures shown in the latest published audited consolidated accounts.
A transaction:

51.3.8 is any agreement (including an amendment to an agreement) entered into by the NHS foundation trust in respect of the acquisition of a business or services or the disposal of a business or service.

51.3.9 excludes a transaction in the ordinary course of business, including the renewal, extension or entering into an agreement in respect of healthcare services carried out by the NHS foundation trust;

51.3.10 excludes any agreement or changes to healthcare services carried out by the NHS foundation trust following a reconfiguration of services led by the commissioners of such services;

51.3.11 excludes any grant of public dividend capital or the entering into of a working capital facility or other loan, which does not involve the acquisition or disposal of any fixed asset of the NHS foundation trust.

52 Amendment of the Constitution

52.1 The Trust may make amendments of its Constitution only if:

52.1.1 More than half of the members of the Council of Governors of the Trust voting approve the amendments; and

52.1.2 More than half of the members of the Board of Directors of the Trust voting approve the amendments.

52.2 Amendments made under paragraph 51.1 take effect as soon as the conditions in that paragraph are satisfied, but the amendment has no effect in so far as the constitution would, as a result of the amendment, not accord with schedule 7 of the 2006 Act.

52.3 Where an amendment is made to the constitution in relation to the powers or duties of the Council of Governors (or otherwise with respect to the role that the Council of Governors has as part of the Trust):

523.1 At least one member of the Council of
Governors must attend the next Annual Members’ Meeting and present the amendment; and

52.3.2 The Trust must give the members an opportunity to vote on whether they approve the amendment.

52.3.3 If more than half of the members voting approve the amendment, the amendment continues to have effect; otherwise it ceases to have effect and the Trust must take such steps as are necessary as a result.

52.4 Amendments by the Trust of its Constitution are to be notified to NHSI. For the avoidance of doubt, NHSI’S functions do not include a power or duty to determine whether or not the constitution, as a result of the amendments, accords with Schedule 7 of the 2006 Act.
ANNEX 1 – CONSTITUENCIES

(1) Mid Devon, North Devon, Torridge, West Devon, Cornwall and the Isles of Scilly (to be known as Mid North West Devon & Cornwall)
(2) Exeter, Teignbridge, Torbay, South Hams and Plymouth (to be known as Exeter & South Devon)
(3) East Devon, Dorset, Somerset and the rest of England (to be known as East Devon, Dorset & Somerset and the Rest of England)
The Election Rules

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1. Interpretation

1.1 In these rules, unless the context otherwise requires:

“2006 Act” means the National Health Service Act 2006;

“corporation” means the public benefit corporation subject to this constitution;

“council of governors” means the council of governors of the corporation;

“declaration of identity” has the meaning set out in rule 22.1;

“election” means an election by a constituency, or by a class within a constituency, to fill a vacancy among one or more posts on the council of governors;

“e-voting” means voting using either the internet, telephone or text message;

“e-voting information” has the meaning set out in rule 25.2;

“ID declaration form” has the meaning set out in Rule 22.1; “internet voting record” has the meaning set out in rule 27.4(d);

“internet voting system” means such computer hardware and software, data other equipment and services as may be provided by the returning officer for the purpose of enabling voters to cast their votes using the internet;

“lead governor” means the governor nominated by the corporation to fulfil the role described in Appendix B to The NHS Foundation Trust Code of Governance (Monitor, December 2013) or any later version of such code.

“list of eligible voters” means the list referred to in rule 23.1, containing the information in rule 23.2;

“method of polling” means a method of casting a vote in a poll, which may be by post, internet, text message or telephone;

“Monitor” means the corporate body known as Monitor as provided by section 61 of the 2012 Act;

“numerical voting code” has the meaning set out in rule 58.2(b)

“polling website” has the meaning set out in rule 27.1;

“postal voting information” has the meaning set out in rule 25.1;

“telephone short code” means a short telephone number used for the purposes of submitting a vote by text message;

“telephone voting facility” has the meaning set out in rule 27.2;

“telephone voting record” has the meaning set out in rule 27.5(d);

“text message voting facility” has the meaning set out in rule 27.3;
“text voting record” has the meaning set out in rule 27.6(c);

“The telephone voting system” means such telephone voting facility as may be provided by the returning officer for the purpose of enabling voters to cast their votes by telephone;

“The text message voting system” means such text messaging voting facility as may be provided by the returning officer for the purpose of enabling voters to cast their votes by text message;

“voter ID number” means a unique, randomly generated numeric identifier allocated to each voter by the Returning Officer for the purpose of e-voting,

“voting information” means postal voting information and/or e-voting information.

1.2 Other expressions used in these rules and in Schedule 7 to the NHS Act 2006 have the same meaning in these rules as in that Schedule.
2. **Timetable**

2.1 The proceedings at an election shall be conducted in accordance with the following timetable:

<table>
<thead>
<tr>
<th>Proceeding</th>
<th>Time</th>
</tr>
</thead>
<tbody>
<tr>
<td>Publication of notice of election</td>
<td>Not later than the fortieth day before the day of the close of the poll.</td>
</tr>
<tr>
<td>Final day for delivery of nomination forms to returning officer</td>
<td>Not later than the twenty eighth day before the day of the close of the poll.</td>
</tr>
<tr>
<td>Publication of statement of nominated candidates</td>
<td>Not later than the twenty seventh day before the day of the close of the poll.</td>
</tr>
<tr>
<td>Final day for delivery of notices of withdrawals by candidates from election</td>
<td>Not later than twenty fifth day before the day of the close of the poll.</td>
</tr>
<tr>
<td>Notice of the poll</td>
<td>Not later than the fifteenth day before the day of the close of the poll.</td>
</tr>
<tr>
<td>Close of the poll</td>
<td>By 5.00pm on the final day of the election.</td>
</tr>
</tbody>
</table>

3. **Computation of time**

3.1 In computing any period of time for the purposes of the timetable:

(a) a Saturday or Sunday;

(b) Christmas day, Good Friday, or a bank holiday, or

(c) a day appointed for public thanksgiving or mourning,

shall be disregarded, and any such day shall not be treated as a day for the purpose of any proceedings up to the completion of the poll, nor shall the returning officer be obliged to proceed with the counting of votes on such a day.

3.2 In this rule, “bank holiday” means a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in England and Wales.
4. Returning Officer

4.1 Subject to rule 63, the returning officer for an election is to be appointed by the corporation.

4.2 Where two or more elections are to be held concurrently, the same returning officer may be appointed for all those elections.

5. Staff

5.1 Subject to rule 63, the returning officer may appoint and pay such staff, including such technical advisers, as he or she considers necessary for the purposes of the election.

6. Expenditure

6.1 The corporation is to pay the returning officer:

(a) any expenses incurred by that officer in the exercise of his or her functions under these rules,

(b) such remuneration and other expenses as the corporation may determine.

7. Duty of co-operation

7.1 The corporation is to co-operate with the returning officer in the exercise of his or her functions under these rules.
PART 4: STAGES COMMON TO CONTESTED AND UNCONTESTED ELECTIONS

8. Notice of election

8.1 The returning officer is to publish a notice of the election stating:

(a) the constituency, or class within a constituency, for which the election is being held,
(b) the number of members of the council of governors to be elected from that constituency, or class within that constituency,
(c) the details of any nomination committee that has been established by the corporation,
(d) the address and times at which nomination forms may be obtained;
(e) the address for return of nomination forms (including, where the return of nomination forms in an electronic format will be permitted, the e-mail address for such return) and the date and time by which they must be received by the returning officer,
(f) the date and time by which any notice of withdrawal must be received by the returning officer

(g) the contact details of the returning officer
(h) the date and time of the close of the poll in the event of a contest.

9. Nomination of candidates

9.1 Subject to rule 9.2, each candidate must nominate themselves on a single nomination form.

9.2 The returning officer:

(a) is to supply any member of the corporation with a nomination form, and
(b) is to prepare a nomination form for signature at the request of any member of the corporation,

but it is not necessary for a nomination to be on a form supplied by the returning officer and a nomination can, subject to rule 14, be in an electronic format.

10. Candidate’s particulars

10.1 The nomination form must state the candidate’s:

(a) full name,
(b) contact address in full (which should be a postal address although an e-mail address may also be provided for the purposes of electronic communication), and
(c) constituency, or class within a constituency, of which the candidate is a member.

11. Subscription of nomination form
The nomination form must be subscribed by two supporters.

Each supporter must:

(a) be a member of the same constituency, or class within a constituency, to which the candidate belongs, and
(b) state his or her constituency, or class within a constituency, on the nomination form.

A member of the corporation must not subscribe more than one nomination form.

If a member of the corporation subscribes more than one nomination form in contravention of paragraph 11.3, then the second and any further subscriptions received by the returning officer are invalid.

Where a member of the corporation subscribes a nomination form and the candidate nominated in the form dies or withdraws before the form is received by the returning officer, then nothing in paragraphs 11.3 or 11.4 prevents that member from subscribing the nomination form of another candidate.

**Declaration of interests**

The nomination form must state:

(a) any financial interest that the candidate has in the corporation, and
(b) whether the candidate is a member of a political party, and if so, which party,

and if the candidate has no such interests, the paper must include a statement to that effect.

**Declaration of eligibility**

The nomination form must include a declaration made by the candidate:

(a) that he or she is not prevented from being a member of the council of governors by paragraph 8 of Schedule 7 of the 2006 Act or by any provision of the constitution; and,
(b) for a member of the public or patient constituency, of the particulars of his or her qualification to vote as a member of that constituency, or class within that constituency, for which the election is being held.

**Signature of candidate**

The nomination form must be signed and dated by the candidate, in a manner prescribed by the returning officer, indicating that:

(a) they wish to stand as a candidate,
(b) their declaration of interests as required under rule 12, is true and correct, and
Where the return of nomination forms in an electronic format is permitted, the returning officer shall specify the particular signature formalities (if any) that will need to be complied with by the candidate.

**Decisions as to the validity of nomination**

Where a nomination form is received by the returning officer in accordance with these rules, the candidate is deemed to stand for election unless and until the returning officer:

(a) decides that the candidate is not eligible to stand,
(b) decides that the nomination form is invalid,
(c) receives satisfactory proof that the candidate has died, or
(d) receives a written request by the candidate of their withdrawal from candidacy.

The returning officer is entitled to decide that a nomination form is invalid only on one of the following grounds:

(a) that the paper is not received on or before the final time and date for return of nomination forms, as specified in the notice of the election,
(b) that the paper does not contain the candidate’s particulars, as required by rule 10;
(c) that the paper is not subscribed as required by rule 11,
(d) that the paper does not contain a declaration of the interests of the candidate, as required by rule 12,
(e) that the paper does not include a declaration of eligibility as required by rule 13, or
(f) that the paper is not signed and dated by the candidate, if required by rule 14.

The returning officer is to examine each nomination form as soon as is practicable after he or she has received it, and decide whether the candidate has been validly nominated.

Where the returning officer decides that a nomination is invalid, the returning officer must endorse this on the nomination form, stating the reasons for their decision.

The returning officer is to send notice of the decision as to whether a nomination is valid or invalid to the candidate at the contact address given in the candidate’s nomination form. If an e-mail address has been given in the candidate’s nomination form (in addition to the candidate’s postal address), the returning officer may send notice of the decision to that address.

**Publication of statement of candidates**
16.1 The returning officer is to prepare and publish a statement showing the candidates who are standing for election.

16.2 The statement must show:

(a) the name, contact address (which shall be the candidate’s postal address), and constituency or class within a constituency of each candidate standing, and

(b) the declared interests of each candidate standing,

as given in their nomination form.

16.3 The statement must list the candidates standing for election in alphabetical order by surname.

16.4 The returning officer must send a copy of the statement of candidates and copies of the nomination forms to the corporation as soon as is practicable after publishing the statement.

17. **Inspection of statement of nominated candidates and nomination forms**

17.1 The corporation is to make the statement of the candidates and the nomination forms supplied by the returning officer under rule 16.4 available for inspection by members of the corporation free of charge at all reasonable times.

17.2 If a member of the corporation requests a copy or extract of the statement of candidates or their nomination forms, the corporation is to provide that member with the copy or extract free of charge.

18. **Withdrawal of candidates**

18.1 A candidate may withdraw from election on or before the date and time for withdrawal by candidates, by providing to the returning officer a written notice of withdrawal which is signed by the candidate and attested by a witness.

19. **Method of election**

19.1 If the number of candidates remaining validly nominated for an election after any withdrawals under these rules is greater than the number of members to be elected to the council of governors, a poll is to be taken in accordance with Parts 5 and 6 of these rules.

19.2 If the number of candidates remaining validly nominated for an election after any withdrawals under these rules is equal to the number of members to be elected to the council of governors, those candidates are to be declared elected in accordance with Part 7 of these rules.

19.3 If the number of candidates remaining validly nominated for an election after any withdrawals under these rules is less than the number of members to be elected to be council of governors, then:
(a) the candidates who remain validly nominated are to be declared elected in accordance with Part 7 of these rules, and

(b) the returning officer is to order a new election to fill any vacancy which remains unfilled, on a day appointed by him or her in consultation with the corporation.
PART 5: CONTESTED ELECTIONS

20. Poll to be taken by ballot

20.1 The votes at the poll must be given by secret ballot.

20.2 The votes are to be counted and the result of the poll determined in accordance with Part 6 of these rules.

20.3 The corporation may decide that voters within a constituency or class within a constituency, may, subject to rule 20.4, cast their votes at the poll using such different methods of polling in any combination as the corporation may determine.

20.4 The corporation may decide that voters within a constituency or class within a constituency for whom an e-mail address is included in the list of eligible voters may only cast their votes at the poll using an e-voting method of polling.

20.5 Before the corporation decides, in accordance with rule 20.3 that one or more e-voting methods of polling will be made available for the purposes of the poll, the corporation must satisfy itself that:

(a) if internet voting is to be a method of polling, the internet voting system to be used for the purpose of the election is:
   (i) configured in accordance with these rules; and
   (ii) will create an accurate internet voting record in respect of any voter who casts his or her vote using the internet voting system;

(b) if telephone voting to be a method of polling, the telephone voting system to be used for the purpose of the election is:
   (i) configured in accordance with these rules; and
   (ii) will create an accurate telephone voting record in respect of any voter who casts his or her vote using the telephone voting system;

(c) if text message voting is to be a method of polling, the text message voting system to be used for the purpose of the election is:
   (i) configured in accordance with these rules; and
   (ii) will create an accurate text voting record in respect of any voter who casts his or her vote using the text message voting system.

21. The ballot paper

21.1 The ballot of each voter (other than a voter who casts his or her ballot by an e-voting method of polling) is to consist of a ballot paper with the persons remaining validly nominated for an election after any withdrawals under these rules, and no others, inserted in the paper.

21.2 Every ballot paper must specify:
(a) the name of the corporation,
(b) the constituency, or class within a constituency, for which the election is being held,
(c) the number of members of the council of governors to be elected from that constituency, or class within that constituency,
(d) the names and other particulars of the candidates standing for election, with the details and order being the same as in the statement of nominated candidates,
(e) instructions on how to vote by all available methods of polling, including the relevant voter’s voter ID number if one or more e-voting methods of polling are available,
(f) if the ballot paper is to be returned by post, the address for its return and the date and time of the close of the poll, and
(g) the contact details of the returning officer.

21.3 Each ballot paper must have a unique identifier.

21.4 Each ballot paper must have features incorporated into it to prevent it from being reproduced.

22. The declaration of identity (public and patient constituencies)

22.1 The corporation shall require each voter who participates in an election for a public or patient constituency to make a declaration confirming:

(a) that the voter is the person:
   (i) to whom the ballot paper was addressed, and/or
   (ii) to whom the voter ID number contained within the e-voting information was allocated,
(b) that he or she has not marked or returned any other voting information in the election, and
(c) the particulars of his or her qualification to vote as a member of the constituency or class within the constituency for which the election is being held,
   (“declaration of identity”)

and the corporation shall make such arrangements as it considers appropriate to facilitate the making and the return of a declaration of identity by each voter, whether by the completion of a paper form (“ID declaration form”) or the use of an electronic method.

22.2 The voter must be required to return his or her declaration of identity with his or her ballot.

22.3 The voting information shall caution the voter that if the declaration of identity is not
duly returned or is returned without having been made correctly, any vote cast by the voter may be declared invalid.

**Action to be taken before the poll**

23. **List of eligible voters**

23.1 The corporation is to provide the returning officer with a list of the members of the constituency or class within a constituency for which the election is being held who are eligible to vote by virtue of rule 28 as soon as is reasonably practicable after the final date for the delivery of notices of withdrawals by candidates from an election.

23.2 The list is to include, for each member:

(a) a postal address; and,

(b) the member's e-mail address, if this has been provided

to which his or her voting information may, subject to rule 23.3, be sent.

23.3 The corporation may decide that the e-voting information is to be sent only by e-mail to those members in the list of eligible voters for whom an e-mail address is included in that list.

24. **Notice of poll**

24.1 The returning officer is to publish a notice of the poll stating:

(a) the name of the corporation,

(b) the constituency, or class within a constituency, for which the election is being held,

(c) the number of members of the council of governors to be elected from that constituency, or class within that constituency,

(d) the names, contact addresses, and other particulars of the candidates standing for election, with the details and order being the same as in the statement of nominated candidates,

(e) that the ballot papers for the election are to be issued and returned, if appropriate, by post,

(f) the methods of polling by which votes may be cast at the election by voters in a constituency or class within a constituency, as determined by the corporation in accordance with rule 20.3,

(g) the address for return of the ballot papers,

(h) the uniform resource locator (url) where, if internet voting is a method of polling, the polling website is located;

(i) the telephone number where, if telephone voting is a method of polling, the telephone voting facility is located,

(j) the telephone number or telephone short code where, if text message voting is a method of polling, the text message voting facility is located,
(k) the date and time of the close of the poll,
(l) the address and final dates for applications for replacement voting information, and
(m) the contact details of the returning officer.

25. **Issue of voting information by returning officer**

25.1 Subject to rule 25.3, as soon as is reasonably practicable on or after the publication of the notice of the poll, the returning officer is to send the following information by post to each member of the corporation named in the list of eligible voters:

(a) a ballot paper and ballot paper envelope,
(b) the ID declaration form (if required),
(c) information about each candidate standing for election, pursuant to rule 58 of these rules, and
(d) a covering envelope;

(“postal voting information”).

25.2 Subject to rules 25.3 and 25.4, as soon as is reasonably practicable on or after the publication of the notice of the poll, the returning officer is to send the following information by e-mail and/ or by post to each member of the corporation named in the list of eligible voters whom the corporation determines in accordance with rule 20.3 and/ or rule 20.4 may cast his or her vote by an e-voting method of polling:

(a) instructions on how to vote and how to make a declaration of identity (if required),
(b) the voter’s voter ID number,
(c) information about each candidate standing for election, pursuant to rule 58 of these rules, or details of where this information is readily available on the internet or available in such other formats as the Returning Officer thinks appropriate, (d) contact details of the returning officer,

(“e-voting information”).

25.3 The corporation may determine that any member of the corporation shall:

(a) only be sent postal voting information; or
(b) only be sent e-voting information; or
(c) be sent both postal voting information and e-voting information;

for the purposes of the poll.

25.4 If the corporation determines, in accordance with rule 23.3, that the e-voting information is to be sent only by e-mail to those members in the list of eligible voters for whom an e-mail address is included in that list, then the returning officer shall only send that information by e-mail.
25.5 The voting information is to be sent to the postal address and/or e-mail address for each member, as specified in the list of eligible voters.

26. **Ballot paper envelope and covering envelope**

26.1 The ballot paper envelope must have clear instructions to the voter printed on it, instructing the voter to seal the ballot paper inside the envelope once the ballot paper has been marked.

26.2 The covering envelope is to have:

(a) the address for return of the ballot paper printed on it, and

(b) pre-paid postage for return to that address.

26.3 There should be clear instructions, either printed on the covering envelope or elsewhere, instructing the voter to seal the following documents inside the covering envelope and return it to the returning officer –

(a) the completed ID declaration form if required, and

(b) the ballot paper envelope, with the ballot paper sealed inside it.

27. **E-voting systems**

27.1 If internet voting is a method of polling for the relevant election then the returning officer must provide a website for the purpose of voting over the internet (in these rules referred to as “the polling website”).

27.2 If telephone voting is a method of polling for the relevant election then the returning officer must provide an automated telephone system for the purpose of voting by the use of a touch-tone telephone (in these rules referred to as “the telephone voting facility”).

27.3 If text message voting is a method of polling for the relevant election then the returning officer must provide an automated text messaging system for the purpose of voting by text message (in these rules referred to as “the text message voting facility”).

27.4 The returning officer shall ensure that the polling website and internet voting system provided will:

(a) require a voter to:

   (i) enter his or her voter ID number; and

   (ii) where the election is for a public or patient constituency, make a declaration of identity; in order to be able to cast his or her vote;

(b) specify:

   (i) the name of the corporation,
the constituency, or class within a constituency, for which the election is being held,

the number of members of the council of governors to be elected from that constituency, or class within that constituency,

the names and other particulars of the candidates standing for election, with the details and order being the same as in the statement of nominated candidates,

instructions on how to vote and how to make a declaration of identity,

the date and time of the close of the poll, and

the contact details of the returning officer;

prevent a voter from voting for more candidates than he or she is entitled to at the election;

create a record ("internet voting record") that is stored in the internet voting system in respect of each vote cast by a voter using the internet that comprises of-

the voter’s voter ID number;

the voter’s declaration of identity (where required);

the candidate or candidates for whom the voter has voted; and

the date and time of the voter’s vote,

if the voter’s vote has been duly cast and recorded, provide the voter with confirmation of this; and

prevent any voter from voting after the close of poll.

The returning officer shall ensure that the telephone voting facility and telephone voting system provided will:

require a voter to

enter his or her voter ID number in order to be able to cast his or her vote; and

where the election is for a public or patient constituency, make a declaration of identity;

specify:

the name of the corporation,

the constituency, or class within a constituency, for which the election is being held,

the number of members of the council of governors to be elected from that constituency, or class within that constituency,

instructions on how to vote and how to make a declaration of identity,

the date and time of the close of the poll, and

the contact details of the returning officer;
(c) prevent a voter from voting for more candidates than he or she is entitled to at the election;

(d) create a record ("telephone voting record") that is stored in the telephone voting system in respect of each vote cast by a voter using the telephone that comprises:
   (i) the voter’s voter ID number;
   (ii) the voter’s declaration of identity (where required);
   (iii) the candidate or candidates for whom the voter has voted; and
   (iv) the date and time of the voter’s vote

(e) if the voter’s vote has been duly cast and recorded, provide the voter with confirmation of this;

(f) prevent any voter from voting after the close of poll.

27.6 The returning officer shall ensure that the text message voting facility and text messaging voting system provided will:

(a) require a voter to:
   (i) provide his or her voter ID number; and
   (ii) where the election is for a public or patient constituency, make a declaration of identity;

   in order to be able to cast his or her vote;

(b) prevent a voter from voting for more candidates than he or she is entitled to at the election;

(c) create a record ("text voting record") that is stored in the text messaging voting system in respect of each vote cast by a voter by text message that comprises:
   (i) the voter’s voter ID number;
   (ii) the voter’s declaration of identity (where required);
   (iii) the candidate or candidates for whom the voter has voted; and
   (iv) the date and time of the voter’s vote

(d) if the voter’s vote has been duly cast and recorded, provide the voter with confirmation of this;

(e) prevent any voter from voting after the close of poll.

The poll

28. Eligibility to vote

28.1 An individual who becomes a member of the corporation on or before the closing date for the receipt of nominations by candidates for the election, is eligible to vote in that election.
29. **Voting by persons who require assistance**

29.1 The returning officer is to put in place arrangements to enable requests for assistance to vote to be made.

29.2 Where the returning officer receives a request from a voter who requires assistance to vote, the returning officer is to make such arrangements as he or she considers necessary to enable that voter to vote.

30. **Spoilt ballot papers and spoilt text message votes**

30.1 If a voter has dealt with his or her ballot paper in such a manner that it cannot be accepted as a ballot paper (referred to as a “spoilt ballot paper”), that voter may apply to the returning officer for a replacement ballot paper.

30.2 On receiving an application, the returning officer is to obtain the details of the unique identifier on the spoilt ballot paper, if he or she can obtain it.

30.3 The returning officer may not issue a replacement ballot paper for a spoilt ballot paper unless he or she:

(a) is satisfied as to the voter’s identity; and

(b) has ensured that the completed ID declaration form, if required, has not been returned.

30.4 After issuing a replacement ballot paper for a spoilt ballot paper, the returning officer shall enter in a list (“the list of spoilt ballot papers”):

(a) the name of the voter, and

(b) the details of the unique identifier of the spoilt ballot paper (if that officer was able to obtain it), and

(c) the details of the unique identifier of the replacement ballot paper.

30.5 If a voter has dealt with his or her text message vote in such a manner that it cannot be accepted as a vote (referred to as a “spoilt text message vote”), that voter may apply to the returning officer for a replacement voter ID number.

30.6 On receiving an application, the returning officer is to obtain the details of the voter ID number on the spoilt text message vote, if he or she can obtain it.

30.7 The returning officer may not issue a replacement voter ID number in respect of a spoilt text message vote unless he or she is satisfied as to the voter’s identity.

30.8 After issuing a replacement voter ID number in respect of a spoilt text message vote, the returning officer shall enter in a list (“the list of spoilt text message votes”):

(a) the name of the voter, and

(b) the details of the voter ID number on the spoilt text message vote (if that
officer was able to obtain it), and

(c) the details of the replacement voter ID number issued to the voter.

31. **Lost voting information**

31.1 Where a voter has not received his or her voting information by the tenth day before the close of the poll, that voter may apply to the returning officer for replacement voting information.

31.2 The returning officer may not issue replacement voting information in respect of lost voting information unless he or she:

(a) is satisfied as to the voter’s identity,

(b) has no reason to doubt that the voter did not receive the original voting information,

(c) has ensured that no declaration of identity, if required, has been returned.

31.3 After issuing replacement voting information in respect of lost voting information, the returning officer shall enter in a list (“the list of lost ballot documents”):

(a) the name of the voter

(b) the details of the unique identifier of the replacement ballot paper, if applicable, and

(c) the voter ID number of the voter.

32. **Issue of replacement voting information**

32.1 If a person applies for replacement voting information under rule 30 or 31 and a declaration of identity has already been received by the returning officer in the name of that voter, the returning officer may not issue replacement voting information unless, in addition to the requirements imposed by rule 30.3 or 31.2, he or she is also satisfied that that person has not already voted in the election, notwithstanding the fact that a declaration of identity if required has already been received by the returning officer in the name of that voter.

32.2 After issuing replacement voting information under this rule, the returning officer shall enter in a list (“the list of tendered voting information”):

(a) the name of the voter,

(b) the unique identifier of any replacement ballot paper issued under this rule;

(c) the voter ID number of the voter.

33. **ID declaration form for replacement ballot papers (public and patient constituencies)**

33.1 In respect of an election for a public or patient constituency an ID declaration form must be issued with each replacement ballot paper requiring the voter to make a declaration of identity.
Polling by internet, telephone or text

34. **Procedure for remote voting by internet**

34.1 To cast his or her vote using the internet, a voter will need to gain access to the polling website by keying in the url of the polling website provided in the voting information.

34.2 When prompted to do so, the voter will need to enter his or her voter ID number.

34.3 If the internet voting system authenticates the voter ID number, the system will give the voter access to the polling website for the election in which the voter is eligible to vote.

34.4 To cast his or her vote, the voter will need to key in a mark on the screen opposite the particulars of the candidate or candidates for whom he or she wishes to cast his or her vote.

34.5 The voter will not be able to access the internet voting system for an election once his or her vote at that election has been cast.

35. **Voting procedure for remote voting by telephone**

35.1 To cast his or her vote by telephone, the voter will need to gain access to the telephone voting facility by calling the designated telephone number provided in the voter information using a telephone with a touch-tone keypad.

35.2 When prompted to do so, the voter will need to enter his or her voter ID number using the keypad.

35.3 If the telephone voting facility authenticates the voter ID number, the voter will be prompted to vote in the election.

35.4 When prompted to do so the voter may then cast his or her vote by keying in the numerical voting code of the candidate or candidates, for whom he or she wishes to vote.

35.5 The voter will not be able to access the telephone voting facility for an election once his or her vote at that election has been cast.

36. **Voting procedure for remote voting by text message**

36.1 To cast his or her vote by text message the voter will need to gain access to the text message voting facility by sending a text message to the designated telephone number or telephone short code provided in the voter information.

36.2 The text message sent by the voter must contain his or her voter ID number and the numerical voting code for the candidate or candidates, for whom he or she wishes to vote.

36.3 The text message sent by the voter will need to be structured in accordance with
the instructions on how to vote contained in the voter information, otherwise the vote will not be cast.

Procedure for receipt of envelopes, internet votes, telephone votes and text message votes

37. Receipt of voting documents

37.1 Where the returning officer receives:

(a) a covering envelope, or
(b) any other envelope containing an ID declaration form if required, a ballot paper envelope, or a ballot paper,

before the close of the poll, that officer is to open it as soon as is practicable; and rules 38 and 39 are to apply.

37.2 The returning officer may open any covering envelope or any ballot paper envelope for the purposes of rules 38 and 39, but must make arrangements to ensure that no person obtains or communicates information as to:

(a) the candidate for whom a voter has voted, or
(b) the unique identifier on a ballot paper.

37.3 The returning officer must make arrangements to ensure the safety and security of the ballot papers and other documents.

38. Validity of votes

38.1 A ballot paper shall not be taken to be duly returned unless the returning officer is satisfied that it has been received by the returning officer before the close of the poll, with an ID declaration form if required that has been correctly completed, signed and dated.

38.2 Where the returning officer is satisfied that rule 38.1 has been fulfilled, he or she is to:

(a) put the ID declaration form if required in a separate packet, and
(b) put the ballot paper aside for counting after the close of the poll.

38.3 Where the returning officer is not satisfied that rule 38.1 has been fulfilled, he or she is to:

(a) mark the ballot paper “disqualified”,
(b) if there is an ID declaration form accompanying the ballot paper, mark it “disqualified” and attach it to the ballot paper,
(c) record the unique identifier on the ballot paper in a list of disqualified documents (the “list of disqualified documents”); and
(d) place the document or documents in a separate packet.

38.4 An internet, telephone or text message vote shall not be taken to be duly returned unless the returning officer is satisfied that the internet voting record, telephone
voting record or text voting record (as applicable) has been received by the returning officer before the close of the poll, with a declaration of identity if required that has been correctly made.

38.5 Where the returning officer is satisfied that rule 38.4 has been fulfilled, he or she is to put the internet voting record, telephone voting record or text voting record (as applicable) aside for counting after the close of the poll.

38.6 Where the returning officer is not satisfied that rule 38.4 has been fulfilled, he or she is to:

(a) mark the internet voting record, telephone voting record or text voting record (as applicable) “disqualified”,

(b) record the voter ID number on the internet voting record, telephone voting record or text voting record (as applicable) in the list of disqualified documents; and

(c) place the document or documents in a separate packet.

39. Declaration of identity but no ballot paper (public and patient constituency)¹

39.1 Where the returning officer receives an ID declaration form if required but no ballot paper, the returning officer is to:

(a) mark the ID declaration form “disqualified”,

(b) record the name of the voter in the list of disqualified documents, indicating that a declaration of identity was received from the voter without a ballot paper, and

(c) place the ID declaration form in a separate packet.

40. De-duplication of votes

40.1 Where different methods of polling are being used in an election, the returning officer shall examine all votes cast to ascertain if a voter ID number has been used more than once to cast a vote in the election.

40.2 If the returning officer ascertains that a voter ID number has been used more than once to cast a vote in the election he or she shall:

(a) only accept as duly returned the first vote received that was cast using the relevant voter ID number; and

(b) mark as “disqualified” all other votes that were cast using the relevant voter ID number.

40.3 Where a ballot paper is disqualified under this rule the returning officer shall:

(a) mark the ballot paper “disqualified”,

(b) if there is an ID declaration form accompanying the ballot paper, mark it “disqualified” and attach it to the ballot paper,

¹ It should not be possible, technically, to make a declaration of identity electronically without also submitting a vote.
(c) record the unique identifier and the voter ID number on the ballot paper in the list of disqualified documents;
(d) place the document or documents in a separate packet; and
(e) disregard the ballot paper when counting the votes in accordance with these rules.

40.4 Where an internet voting record, telephone voting record or text voting record is disqualified under this rule the returning officer shall:

(a) mark the internet voting record, telephone voting record or text voting record (as applicable) “disqualified”,
(b) record the voter ID number on the internet voting record, telephone voting record or text voting record (as applicable) in the list of disqualified documents;
(c) place the internet voting record, telephone voting record or text voting record (as applicable) in a separate packet, and
(d) disregard the internet voting record, telephone voting record or text voting record (as applicable) when counting the votes in accordance with these rules.

41. Sealing of packets

41.1 As soon as is possible after the close of the poll and after the completion of the procedure under rules 38, 39 and 40, the returning officer is to seal the packets containing:

(a) the disqualified documents, together with the list of disqualified documents inside it,
(b) the ID declaration forms, if required,
(c) the list of spoilt ballot papers and the list of spoilt text message votes,
(d) the list of lost ballot documents,
(e) the list of eligible voters, and
(f) the list of tendered voting information

and ensure that complete electronic copies of the internet voting records, telephone voting records and text voting records created in accordance with rule 27 are held in a device suitable for the purpose of storage.
42. **Arrangements for counting of the votes**

42.1 The returning officer is to make arrangements for counting the votes as soon as is practicable after the close of the poll.

42.2 The returning officer may make arrangements for any votes to be counted using vote counting software where:

   (a) the board of directors and the council of governors of the corporation have approved:
      
      (i) the use of such software for the purpose of counting votes in the relevant election, and
      
      (ii) a policy governing the use of such software, and

   (b) the corporation and the returning officer are satisfied that the use of such software will produce an accurate result.

43. **The count**

43.1 The returning officer is to:

   (a) count and record the number of:
      
      (i) ballot papers that have been returned; and
      
      (ii) the number of internet voting records, telephone voting records and/or text voting records that have been created, and

   (b) count the votes according to the provisions in this Part of the rules and/or the provisions of any policy approved pursuant to rule 42.2(a)(ii) where vote counting software is being used.

43.2 The returning officer, while counting and recording the number of ballot papers, internet voting records, telephone voting records and/or text voting records and counting the votes, must make arrangements to ensure that no person obtains or communicates information as to the unique identifier on a ballot paper or the voter ID number on an internet voting record, telephone voting record or text voting record.

43.3 The returning officer is to proceed continuously with counting the votes as far as is practicable.
44. **Rejected ballot papers and rejected text voting records**

44.1 Any ballot paper:

(a) which does not bear the features that have been incorporated into the other ballot papers to prevent them from being reproduced,

(b) on which votes are given for more candidates than the voter is entitled to vote,

(c) on which anything is written or marked by which the voter can be identified except the unique identifier, or

(d) which is unmarked or rejected because of uncertainty,

shall, subject to rules 44.2 and 44.3, be rejected and not counted.

44.2 Where the voter is entitled to vote for more than one candidate, a ballot paper is not to be rejected because of uncertainty in respect of any vote where no uncertainty arises, and that vote is to be counted.

44.3 A ballot paper on which a vote is marked:

(a) elsewhere than in the proper place,

(b) otherwise than by means of a clear mark,

(c) by more than one mark,

is not to be rejected for such reason (either wholly or in respect of that vote) if an intention that the vote shall be for one or other of the candidates clearly appears, and the way the paper is marked does not itself identify the voter and it is not shown that he or she can be identified by it.

44.4 The returning officer is to:

(a) endorse the word “rejected” on any ballot paper which under this rule is not to be counted, and

(b) in the case of a ballot paper on which any vote is counted under rules 44.2 and 44.3, endorse the words “rejected in part” on the ballot paper and indicate which vote or votes have been counted.

44.5 The returning officer is to draw up a statement showing the number of rejected ballot papers under the following headings:

(a) does not bear proper features that have been incorporated into the ballot paper,

(b) voting for more candidates than the voter is entitled to,

(c) writing or mark by which voter could be identified, and

(d) unmarked or rejected because of uncertainty,

and, where applicable, each heading must record the number of ballot papers rejected in part.
44.6 Any text voting record:

(a) on which votes are given for more candidates than the voter is entitled to vote,
(b) on which anything is written or marked by which the voter can be identified except the voter ID number, or
(c) which is unmarked or rejected because of uncertainty,

shall, subject to rules 44.7 and 44.8, be rejected and not counted.

44.7 Where the voter is entitled to vote for more than one candidate, a text voting record is not to be rejected because of uncertainty in respect of any vote where no uncertainty arises, and that vote is to be counted.

44.8 A text voting record on which a vote is marked:

(a) otherwise than by means of a clear mark,
(b) by more than one mark,

is not to be rejected for such reason (either wholly or in respect of that vote) if an intention that the vote shall be for one or other of the candidates clearly appears, and the way the text voting record is marked does not itself identify the voter and it is not shown that he or she can be identified by it.

44.9 The returning officer is to:

(a) endorse the word “rejected” on any text voting record which under this rule is not to be counted, and
(b) in the case of a text voting record on which any vote is counted under rules 44.7 and 44.8, endorse the words “rejected in part” on the text voting record and indicate which vote or votes have been counted.

44.10 The returning officer is to draw up a statement showing the number of rejected text voting records under the following headings:

(a) voting for more candidates than the voter is entitled to,
(b) writing or mark by which voter could be identified, and
(c) unmarked or rejected because of uncertainty,

and, where applicable, each heading must record the number of text voting records rejected in part.
45. **Equality of votes**

45.1 Where, after the counting of votes is completed, an equality of votes is found to exist between any candidates and the addition of a vote would entitle any of those candidates to be declared elected, the returning officer is to decide between those candidates by a lot, and proceed as if the candidate on whom the lot falls had received an additional vote.
46. Declaration of result for contested elections

46.1 In a contested election, when the result of the poll has been ascertained, the returning officer is to:

(a) declare the candidate or candidates whom more votes have been given than for the other candidates, up to the number of vacancies to be filled on the council of governors from the constituency, or class within a constituency, for which the election is being held to be elected,

(b) give notice of the name of each candidate who he or she has declared elected to the Chairman of the corporation

(c) give public notice of the name of each candidate whom he or she has declared elected.

46.2 The returning officer is to make:

(a) the total number of votes given for each candidate (whether elected or not), and

(b) the number of rejected ballot papers under each of the headings in rule 44.5,

(c) the number of rejected text voting records under each of the headings in rule 44.10,

available on request.

47. Declaration of result for uncontested elections

47.1 In an uncontested election, the returning officer is to as soon as is practicable after final day for the delivery of notices of withdrawals by candidates from the election:

(a) declare the candidate or candidates remaining validly nominated to be elected,

(b) give notice of the name of each candidate who he or she has declared elected to the chairman of the corporation, and

(c) give public notice of the name of each candidate who he or she has declared elected.
48. Sealing up of documents relating to the poll

48.1 On completion of the counting at a contested election, the returning officer is to seal up the following documents in separate packets:

(a) the counted ballot papers, internet voting records, telephone voting records and text voting records,
(b) the declarations of identity
(c) the ballot papers and text voting records endorsed with "rejected in part",
(d) the rejected ballot papers and text voting records, and
(e) the statement of rejected ballot papers and the statement of rejected text voting records,

and ensure that complete electronic copies of the internet voting records, telephone voting records and text voting records created in accordance with rule 26 are held in a device suitable for the purpose of storage.

48.2 The returning officer must not open the sealed packets of:

(a) the disqualified documents, with the list of disqualified documents inside it,
(b) the declarations of identity
(c) the list of spoilt ballot papers and the list of spoilt text message votes,
(d) the list of lost ballot documents, and
(e) the list of eligible voters,

or access the complete electronic copies of the internet voting records, telephone voting records and text voting records created in accordance with rule 26 and held in a device suitable for the purpose of storage.

48.3 The returning officer must endorse on each packet a description of:

(a) its contents,
(b) the date of the publication of notice of the election,
(c) the name of the corporation to which the election relates, and
(d) the constituency, or class within a constituency, to which the election relates.

49. Delivery of documents

49.1 Once the documents relating to the poll have been sealed up and endorsed pursuant to rule 50, the returning officer is to forward them to the chair of the corporation.

50. Forwarding of documents received after close of the poll
50.1 Where:

(a) any voting documents are received by the returning officer after the close of the poll, or
(b) any envelopes addressed to eligible voters are returned as undelivered too late to be resent, or
(c) any applications for replacement voting information are made too late to enable new voting information to be issued,

the returning officer is to put them in a separate packet, seal it up, and endorse and forward it to the chairman of the corporation.

51. Retention and public inspection of documents

51.1 The corporation is to retain the documents relating to an election that are forwarded to the chair by the returning officer under these rules for one year, and then, unless otherwise directed by the board of directors of the corporation, cause them to be destroyed.

51.2 With the exception of the documents listed in rule 52.1, the documents relating to an election that are held by the corporation shall be available for inspection by members of the public at all reasonable times.

51.3 A person may request a copy or extract from the documents relating to an election that are held by the corporation, and the corporation is to provide it, and may impose a reasonable charge for doing so.

52. Application for inspection of certain documents relating to an election

52.1 The corporation may not allow:

(a) the inspection of, or the opening of any sealed packet containing:
   (i) any rejected ballot papers, including ballot papers rejected in part,
   (ii) any rejected text voting records, including text voting records rejected in part,
   (iii) any disqualified documents, or the list of disqualified documents,
   (iv) any counted ballot papers, internet voting records, telephone voting records or text voting records,
   (v) any declarations of identity, or
   (vi) the list of eligible voters, or

(b) access to or the inspection of the complete electronic copies of the internet voting records, telephone voting records and text voting records created in accordance with rule 27 and held in a device suitable for the purpose of storage,

by any person without the consent of the board of directors of the corporation.
52.2 A person may apply to the board of directors of the corporation to inspect any of the documents listed in rule 52.1, and the board of directors of the corporation may only consent to such inspection if it is satisfied that it is necessary for the purpose of questioning an election pursuant to Part 11.

52.3 The board of directors of the corporation’s consent may be on any terms or conditions that it thinks necessary, including conditions as to –

(a) persons,
(b) time,
(c) place and mode of inspection,
(d) production or opening,

and the corporation must only make the documents available for inspection in accordance with those terms and conditions.

52.4 On an application to inspect any of the documents listed in rule 52.1 the board of directors of the corporation must:

(a) in giving its consent, and
(b) in making the documents available for inspection

ensure that the way in which the vote of any particular member has been given shall not be disclosed, until it has been established –

(i) that his or her vote was given, and
(ii) that Monitor has declared that the vote was invalid.
PART 9: DEATH OF A CANDIDATE DURING A CONTESTED ELECTION

53. Countermand or abandonment of poll on death of candidate

53.1 If at a contested election, proof is given to the returning officer’s satisfaction before the result of the election is declared that one of the persons named or to be named as a candidate has died, then the returning officer is to:

(a) countermand notice of the poll, or, if voting information has been issued, direct that the poll be abandoned within that constituency or class, and

(b) order a new election, on a date to be appointed by him or her in consultation with the corporation, within the period of 40 days, computed in accordance with rule 3 of these rules, beginning with the day that the poll was countermanded or abandoned.

53.2 Where a new election is ordered under rule 53.1, no fresh nomination is necessary for any candidate who was validly nominated for the election where the poll was countermanded or abandoned but further candidates shall be invited for that constituency or class.

53.3 Where a poll is abandoned under rule 53.1(a), rules 53.4 to 53.7 are to apply.

53.4 The returning officer shall not take any step or further step to open envelopes or deal with their contents in accordance with rules 38, 39 and 40, and is to make up separate sealed packets in accordance with rule 41.

53.5 The returning officer is to:

(a) count and record the number of ballot papers, internet voting records, telephone voting records and text voting records that have been received,

(b) seal up the ballot papers, internet voting records, telephone voting records and text voting records into packets, along with the records of the number of ballot papers, internet voting records, telephone voting records and text voting records and

ensure that complete electronic copies of the internet voting records telephone voting records and text voting records created in accordance with rule 26 are held in a device suitable for the purpose of storage.

53.6 The returning officer is to endorse on each packet a description of:

(a) its contents,

(b) the date of the publication of notice of the election,

(c) the name of the corporation to which the election relates, and

(d) the constituency, or class within a constituency, to which the election relates.
53.7 Once the documents relating to the poll have been sealed up and endorsed pursuant to rules 53.4 to 53.6, the returning officer is to deliver them to the chairman of the corporation, and rules 51 and 52 are to apply.
Election expenses

54. Election expenses

54.1 Any expenses incurred, or payments made, for the purposes of an election which contravene this Part are an electoral irregularity, which may only be questioned in an application made to Monitor under Part 11 of these rules.

55. Expenses and payments by candidates

55.1 A candidate may not incur any expenses or make a payment (of whatever nature) for the purposes of an election, other than expenses or payments that relate to:

(a) personal expenses,

(b) travelling expenses, and expenses incurred while living away from home, and

(c) expenses for stationery, postage, telephone, internet (or any similar means of communication) and other petty expenses, to a limit of £100.

56. Election expenses incurred by other persons

56.1 No person may:

(a) incur any expenses or make a payment (of whatever nature) for the purposes of a candidate's election, whether on that candidate's behalf or otherwise, or

(b) give a candidate or his or her family any money or property (whether as a gift, donation, loan, or otherwise) to meet or contribute to expenses incurred by or on behalf of the candidate for the purposes of an election.

56.2 Nothing in this rule is to prevent the corporation from incurring such expenses, and making such payments, as it considers necessary pursuant to rules 57 and 58.

Publicity

57. Publicity about election by the corporation

57.1 The corporation may:

(a) compile and distribute such information about the candidates, and

(b) organise and hold such meetings to enable the candidates to speak and respond to questions, as it considers necessary.

57.2 Any information provided by the corporation about the candidates, including information compiled by the corporation under rule 58, must be:

(a) objective, balanced and fair,
(b) equivalent in size and content for all candidates,
(c) compiled and distributed in consultation with all of the candidates standing for election, and
(d) must not seek to promote or procure the election of a specific candidate or candidates, at the expense of the electoral prospects of one or more other candidates.

57.3 Where the corporation proposes to hold a meeting to enable the candidates to speak, the corporation must ensure that all of the candidates are invited to attend, and in organising and holding such a meeting, the corporation must not seek to promote or procure the election of a specific candidate or candidates at the expense of the electoral prospects of one or more other candidates.

58. Information about candidates for inclusion with voting information

58.1 The corporation must compile information about the candidates standing for election, to be distributed by the returning officer pursuant to rule 25 of these rules.

58.2 The information must consist of:

(a) a statement submitted by the candidate of no more than a specified number of words,
(b) if voting by telephone or text message is a method of polling for the election, the numerical voting code allocated by the returning officer to each candidate, for the purpose of recording votes using the telephone voting facility or the text message voting facility (“numerical voting code”),
(c) a photograph of the candidate and
(d) Additionally, where a candidate is seeking re-election, a statement of actual attendance at Council of Governor meetings compared with Council of Governor meetings held during the candidate’s period of office.

59. Meaning of “for the purposes of an election”

59.1 In this Part, the phrase “for the purposes of an election” means with a view to, or otherwise in connection with, promoting or procuring a candidate’s election, including the prejudicing of another candidate’s electoral prospects; and the phrase “for the purposes of a candidate’s election” is to be construed accordingly.

59.2 The provision by any individual of his or her own services voluntarily, on his or her own time, and free of charge is not to be considered an expense for the purposes of this Part.
60. Application to question an election

60.1 An application alleging a breach of these rules, including an electoral irregularity under Part 10, may be made to Monitor for the purpose of seeking a referral to the independent election arbitration panel (IEAP).

60.2 An application may only be made once the outcome of the election has been declared by the returning officer.

60.3 An application may only be made to Monitor by:

(a) a person who voted at the election or who claimed to have had the right to vote, or
(b) a candidate, or a person claiming to have had a right to be elected at the election.

60.4 The application must:

(a) describe the alleged breach of the rules or electoral irregularity, and
(b) be in such a form as the independent panel may require.

60.5 The application must be presented in writing within 21 days of the declaration of the result of the election. Monitor will refer the application to the independent election arbitration panel appointed by Monitor.

60.6 If the independent election arbitration panel requests further information from the applicant, then that person must provide it as soon as is reasonably practicable.

60.7 Monitor shall delegate the determination of an application to a person or panel of persons to be nominated for the purpose.

60.8 The determination by the IEAP shall be binding on and shall be given effect by the corporation, the applicant and the members of the constituency (or class within a constituency) including all the candidates for the election to which the application relates.

60.9 The IEAP may prescribe rules of procedure for the determination of an application including costs.
61.  Secrecy

61.1 The following persons:

(a) the returning officer,
(b) the returning officer’s staff,

must maintain and aid in maintaining the secrecy of the voting and the counting of the votes, and must not, except for some purpose authorised by law, communicate to any person any information as to:

(i) the name of any member of the corporation who has or has not been given voting information or who has or has not voted,
(ii) the unique identifier on any ballot paper,
(iii) the voter ID number allocated to any voter,
(iv) the candidate(s) for whom any member has voted.

61.2 No person may obtain or attempt to obtain information as to the candidate(s) for whom a voter is about to vote or has voted, or communicate such information to any person at any time, including the unique identifier on a ballot paper given to a voter or the voter ID number allocated to a voter.

61.3 The returning officer is to make such arrangements as he or she thinks fit to ensure that the individuals who are affected by this provision are aware of the duties it imposes.

62.  Prohibition of disclosure of vote

62.1 No person who has voted at an election shall, in any legal or other proceedings to question the election, be required to state for whom he or she has voted.

63.  Disqualification

63.1 A person may not be appointed as a returning officer, or as staff of the returning officer pursuant to these rules, if that person is:

(a) a member of the corporation,
(b) an employee of the corporation,
(c) a director of the corporation, or
(d) employed by or on behalf of a person who has been nominated for election.
64. **Delay in postal service through industrial action or unforeseen event**

64.1 If industrial action, or some other unforeseen event, results in a delay in:

(a) the delivery of the documents in rule 25, or

(b) the return of the ballot papers,

the returning officer may extend the time between the publication of the notice of the poll and the close of the poll by such period as he or she considers appropriate.
COUNCIL OF GOVERNORS MEETINGS

RULES OF PROCEDURE

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RULES OF PROCEDURE
FOR
COUNCIL OF GOVERNORS’ MEETINGS

1. AUTHORITY

These rules of procedure have been agreed by the Council of Governors. Subsequent amendments will be made in accordance with Rule 20.

2. MEETINGS

General Council of Governors’ scheduled meetings will normally be held four times per year. The Trust Secretary will publish the dates, times and locations of meetings for the year in advance.

Extraordinary Governors’ meetings may be called in accordance with the Constitution, giving at least 14 days’ notice.

Extraordinary meetings of the Council of Governors may be called by the Trust Secretary, or by the Chair, or by ten Governors (including not less than five Public Governors) who give written notice to the Trust Secretary specifying the business to be carried out. The Trust Secretary shall send a written notice to all Governors as soon as possible after receipt of such a request. The Trust Secretary shall call a meeting on at least fourteen but not more than twenty-eight days’ notice to discuss the specified business. If the Trust Secretary fails to call such a meeting then the Chair or the ten governors, whichever is the case, shall call such a meeting.

3. QUORUM AT GENERAL MEETINGS OF THE COUNCIL OF GOVERNORS

Eleven Governors shall form a quorum at general meetings of the Council of Governors.

4. AGENDAS AND PAPERS

Hard copies of agendas and supporting papers will normally be issued to arrive with Governors no later than 7 days in advance of a meeting. This will also include a copy of the minutes of the previous meeting for approval as a specific agenda item.

Note: Draft minutes of meetings will be circulated no more than 4 weeks after the date of the meeting they relate to.

5. DISCLOSURE OF INTERESTS

If a Governor has any pecuniary, personal or family interest, actual or potential, direct or indirect, in any contract, proposed contract or other matter and is present at a meeting of the Trust at which the contract, proposed contract or other matter is the subject of consideration, they shall, at the meeting and as soon as practicable after its commencement disclose the fact.
They shall not take part in the consideration or discussion of the contract or other matter or count towards quoracy or vote on any questions with respect to it.

The Chair should consider whether to exclude a governor from a meeting of the Trust while any contract, proposed contract or other matter in which he/she has a pecuniary, personal or family interest, is under consideration.

6. **REPORTS FROM THE DIRECTORS OR OFFICERS**

A Governor may ask any question through the Chair without notice upon a report from a Director, or other officer of the Trust, when that item is being received or under consideration by the Council. Unless the Chair decides otherwise no statements will be made other than those which are strictly essential to define the question, which should last no longer than 3 minutes.

Up to two supplementary questions may be asked but only if the supplementary question arises directly out of the reply given. The Chair may reject any question from any governor if in his or her opinion the question is substantially the same as a question which has already been put to that meeting or a recent meeting of Council. At the discretion of the Chair, questions may also be asked of the Directors by members of the Trust or the public.

7. **NOTICE OF QUESTIONS**

A Governor may ask a question providing they have given at least 14 days’ notice in writing of the question to the Secretary. For the purposes of this Procedure Rule, receipt of any such questions by electronic means is considered acceptable.

8. **QUESTIONS ON NOTICE AT COUNCIL OF GOVERNORS MEETINGS**

Questions on notice are defined as questions from Governors about matters which are directly in relation to matters over which the Council has powers or duties or which affect the services provided by the Trust. Subject to the constraints of paragraph 7 a Governor may ask questions of:

- the Chair;
- another Governor
- a Director;
- the Chair of any CoG sub-committee or working group present
9. **RESPONSE**

An answer may take the form of:

(a) a direct oral answer;

(b) where the desired information is in a publication of the Trust or other published work, a reference to that publication; or

(c) where the reply cannot conveniently be given orally, a written answer will be circulated prior to the meeting or during the meeting or as soon as possible after the meeting to the questioner and to the COG.

(d) a brief oral answer supplemented by a written response to the questioner and to the COG within 10 days of the meeting.

10. **SUPPLEMENTARY QUESTIONS**

Supplementary questions for clarification may be asked at the discretion of the Chair.

11. **MOTIONS, AMENDMENTS OR ALTERATIONS OR WITHDRAWALS OF MOTIONS – GENERAL PROVISIONS**

The rules which follow in relation to the moving, amendment, alteration or withdrawal of motions shall in no way operate at any time to avoid or circumvent compliance with any other approved rules of committee and therefore shall be construed accordingly.

12. **MOTIONS ON NOTICE**

**Notice**

Motions may only be submitted by Governors and must be received by the Trust Secretary in writing at least two weeks prior to the meeting at which they are to be considered, together with any relevant supporting paper. Except for motions which can be moved without notice under Rule 12, written notice of every motion signed or transmitted by at least 2 Governors, is required. For the purposes of this Procedure Rule, receipt of any such motions via electronic means is considered acceptable. All motions will be acknowledged by the Trust Secretary within 5 working days.

**Scope**

Motions must be about matters for which the Council has a responsibility or which affect the services provided by the Trust.
13. MOTIONS WITHOUT NOTICE

The following motions may be moved without notice:

(a) in relation to the accuracy of the minutes;
(b) to change the order of business in the agenda;
(c) to refer something to an appropriate body or individual;
(d) to appoint a working group arising from an item on the agenda for the meeting;
(e) to receive reports or adopt recommendations made by the Board of Directors;
(f) to withdraw a motion;
(g) to amend a motion;
(h) to proceed to the next business;
(i) that the question be now put;
(j) to adjourn a debate;
(k) to adjourn a meeting;
(l) to suspend a particular Council Procedure Rule; a rule may be suspended by motion on notice or without notice if at least one half of the whole number of Governors of the Council are present. Suspension can only be for the duration of the meeting.

To exclude the public and press:

The motion shall read “To exclude the press and public from the remainder of the meeting, owing to the confidential nature of the business to be transacted, namely (here insert brief description of the matter to be discussed).”

To not hear further from a Governor or to exclude them from the meeting:

If a Governor persistently disregards the ruling of the Chair by behaving improperly or offensively or deliberately obstructs business or does not comply with the Code of Conduct, the Chair may move that the Governor be not heard further. If seconded, the motion will be voted on without discussion. If the Governor continues to behave improperly after such a motion is carried, the Chair may move either that the Governor leaves the meeting room or that the meeting is adjourned for a specified period. If seconded, the motion will be voted on without discussion.

(m) to give the consent of the Council where its consent is required by the Constitution.
14. **URGENT MOTIONS OR QUESTIONS**

Urgent motions or questions may only be submitted by a Governor with the Lead Governor’s agreement (or the Deputy Lead Governor in their absence) and must be received by the Trust Secretary in writing before the commencement of the meeting.

15. **ANY OTHER BUSINESS**

There will not be an agenda item entitled “Any Other Business”. Instead, if required, there will be an item for “Motions or Questions on Notice”, which are subject to Rules 7 and 12 above. There will be another item for “Urgent Motions or Questions”, which are subject to Rules 7 and 14.

16. **SPEAKING RULES**

This rule applies to all forms of speech/debate by Governors or members of the Trust and public in relation to the motion or question under discussion.

**Content and Length of Speeches**

Approval to speak will be given by the Chair. Governors will be heard first, and after their debate is complete the Chair will ask for any questions/comments from members of the Trust and the public in that order. Speeches must be directed to the matter, motion or question under discussion or to a personal explanation or point of order. Unless in the opinion of the Chair it would not be desirable or appropriate to time limit speeches on any topic to be discussed having regard to its nature complexity or importance, no proposal speech, nor any reply, may exceed three minutes. In the interests of time the Chair may limit the number of replies which are heard.

**When a person may speak again**

A person who has spoken on a matter may not speak again whilst it is the subject of debate, except:

- in exercise of a right of reply;
- on a point of order
- on a point of fact

**Identification**

All speakers must state their name and role e.g. Governor, before starting to speak to ensure the accuracy of the minutes.
ATTENDANCE

Governors who are unable to attend general meetings of the Council of Governors must advise the Trust Secretary in advance of the meeting so that their apologies may be recorded. Governors who fail to do this will be recorded as “Did not attend” in the minutes. Governors should be aware of the requirements of paragraph 23 of the Trust's Constitution which covers the termination of office and removal of Governors in the event of poor attendance, and the CoG Coordinating Committees terms of reference, which are available on the Trust’s website.

In addition, Governors who are unable to attend development days or members meetings must inform the Engagement Office of this fact.

Attendance records will be kept for all Council of Governors meetings, development days and Members meetings.

Governors seeking re-election will have a statement, in a form which has been approved by the CoG Coordinating Committee, reporting on their attendance record, added to their re-election application.

The attendance record of Governors at general meetings will be published in the Annual Report.

CHAIRING THE MEETING

The Council of Governors will be chaired in accordance with the Constitution. If the CoG is dealing with matters of succession of the Chair, then the Lead Governor will preside. If the Lead Governor is not available the meeting will be chaired, for that part of the meeting only, by the Deputy Lead Governor or a public Governor selected from among those present.

DISPUTE BETWEEN THE COUNCIL OF GOVERNORS AND THE BOARD OF DIRECTORS.

In situations where any conflict arises between the Board of Directors and the Council of Governors, which the Chair is unable to resolve, then the Chair will immediately refer to the Council of Governors Dispute Escalation Policy and where appropriate initiate an independent review to investigate and make recommendations. Normally this will be achieved by inviting the Senior Independent Director (SID) of the Foundation Trust to conduct the review in accordance with the Council of Governors/Board of Directors Dispute Escalation Policy.

AMENDMENTS TO RULES OF PROCEDURE

These rules of procedure may only be amended at a Council of Governors meeting. The Effectiveness Group may propose amendments to these Rules of Procedure. Any other motion to change the rules of procedure must be reviewed and approved by a majority of Governors and submitted to the Trust Secretary in writing at least 14 days before the meeting.
The Effectiveness Working Group will review this document at intervals not exceeding three years.
ANNEX A

APPROVED COMMITTEES OF THE COUNCIL OF GOVERNORS

A1. NOMINATIONS COMMITTEE (NC)

The Constitution, at paragraph 32.1.3, makes provision for the creation of a Nominations Committee for the appointment of the Chair and Non-Executive Directors. The terms of reference for this committee will be approved by the Council of Governors. The committee will consist of Governors. As stated in the Constitution, the committee will be advised by the Chief Executive and one or two independent advisors. In addition, the Deputy Director of Transformation and OD will also be available to provide HR advice. The committee will be chaired by the Chair of the Council of Governors, except when discussing matters relating to the Chair of the Council of Governors, when the Lead Governor will preside. The Governor members on the committee will be elected by their fellow Governors in accordance with a process agreed by them. The committee will make recommendations on the appointment of suitable candidates for approval by the Council of Governors.

A2. NON-EXECUTIVE DIRECTOR REMUNERATION COMMITTEE (NEDRC)

The Constitution, at paragraphs 40.1, makes provision for the creation of the NEDRC whose function is to recommend the remuneration of the Chair of the Council of Governors and the Non-Executive Directors. The terms of reference for the NEDRC will be approved by the Council of Governors. The NEDRC will be chaired by the Lead Governor and comprise Governors as laid down in the terms of reference. The committee members will be elected by Governors in accordance with an election process which they will approve. The committee will make recommendations on appropriate levels of remuneration to Council of Governors for their approval.

A3 CoG Coordinating Committee

Both the Constitution, at paragraphs– 23.2 & 23.3, and paragraph 16 to these rules of procedure, describe the minimum attendance requirements by Governors at Council of Governors meetings, development days and members meetings and the sanctions which may be applied for poor attendance. The responsibility for monitoring attendance lies with the CoG Coordinating Committee which comprises: Chair of the Council of Governors, Chairs of working groups, Lead Governor, Deputy Lead Governor, a Staff Governor and an appointed Governor. The committee operates in accordance with terms of reference which are approved by the Council of Governors.

The CoG Coordinating Committee will review the attendance records for the above events quarterly and make recommendation to the Council of Governors in the event of poor attendance. In so doing it will take into account the reasons given for non-attendance, however, given that the dates of general meetings of the Council of Governors are published in advance, all Governors will be expected to attend as a matter of priority. Appointed Governors who have a conflict with their primary duties may, exceptionally, send an alternate Governor from the same organisation if they are unable to attend.
# FOUNDATION TRUST STANDING ORDERS

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ROYAL DEVON AND EXETER NHS FOUNDATION TRUST

STANDING ORDERS

Approved by the Board of Directors on 29 November 2006 and amended 26 November 2014 and 29 November 2017
FOREWORD
Within the License issued by NHS Improvement (NHSI), the Independent Regulator of NHS Foundation Trusts, NHS Foundation Trusts are required to demonstrate appropriate arrangements to provide comprehensive governance arrangements in accordance with the National Health Service Act 2006.

Standing Orders (SOs) regulate the proceedings and business of the Trust and are part of its corporate governance arrangements. In addition, as part of accepted Codes of Conduct and Accountability arrangements, Boards are expected to adopt schedules of reservation of powers and delegation of powers. These “Scheme of Delegation” schedules are incorporated within the Trust’s Standing Financial Instructions.

This document, together with Standing Financial Instructions, Standards of Business Conduct, Budgetary Control Procedures, the Fraud and Corruption Policy and the procedures for the Declaration of Interests provide a regulatory framework for the business conduct of the Trust. They fulfil the dual role of protecting the Trust's interests and protecting staff from possible accusation that they have acted less than properly.

The Standing Orders, Budgetary Control Procedures and Standing Financial Instructions, which includes the Scheme of Delegation, provide a comprehensive business framework that can be applied to all activities. Members of the Board of Directors and all members of staff should be aware of the existence of and work to these documents.
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1. INTRODUCTION

1.1 Statutory Framework
The Royal Devon and Exeter NHS Foundation Trust is a public benefit corporation which was established under the National Health Service Act 2006 (the 2006 Act). The principal place of business of the Trust is the Royal Devon and Exeter Hospital (Wonford) in Exeter.

NHS Foundation Trusts are governed by statute namely the National Health Service Act 2006. The statutory functions conferred on the Trust are set out in the 2006 Act and in the Trust's License and Constitution.

As a public benefit corporation the Trust has specific powers to do anything which appears to be necessary or desirable for the purposes of, or in connection with, its functions. It is also accountable to the Charity Commission for those funds deemed to be charitable. The Trust also has a common law duty as a bailey for patients' property held by the Trust on behalf of patients.

The NHS Constitution requires the Trust to adopt Standing Orders (SOs) for the regulation of its proceedings and business. When compiling their accounts, the sector regulator for health services in England (NHSI) requires that Foundation Trusts comply with International Financial Reporting Standards. NHSI produces a Foundation Trust Annual Reporting Manual which also provides guidance for foundation trusts, consistent with the requirements of the Financial Reporting Advisory Board.

NHSI’s Code of Governance requires that, inter alia, Boards draw up a schedule of matters reserved to the board, and ensure that management arrangements are in place to enable responsibility to be clearly delegated to senior executives (a scheme of delegation). The constitution also requires the establishment of Audit and Remuneration Committees with formally agreed terms of reference. The Trust also operates a Code of Conduct for Directors.

1.2 Delegation of Powers
Under the Standing Orders relating to the Arrangements for the Exercise of Functions (Standing Order 4) the Board exercises its powers to make arrangements for the exercise, on behalf of the Trust, of any of its functions by a committee or sub-committee appointed by virtue of Standing Order 4.1. This may also be exercised by an officer of the Trust, in each case subject to such restrictions and conditions as the Board thinks fit or as the Independent Regulator may direct. Delegated Powers are covered in a separate document (Matters Reserved for the Board and Delegation of Powers). That document has effect as if incorporated into the Standing Orders.

1.3 Conflict with the Trust’s Constitution
Where any conflict arises between the Constitution and these Standing Orders, the Constitution shall have primacy.

1.4 Final authority in the interpretation of Standing Orders
The Chair of the Trust shall be the final authority in the interpretation of Standing Orders on which s/he shall be advised by the Chief Executive and in the case of Standing Financial Instructions by the Chief Financial Officer.
1.5 **Definitions**

All references in these Standing Orders to the masculine gender shall be read as equally applicable to the feminine gender and vice-versa.

Throughout these Standing Orders, if not inconsistent with the context:

"**Trust**" means the Royal Devon and Exeter NHS Foundation Trust.

"**Board**" means the Board of Directors and comprises the Chair and non-executive directors, appointed by the Council of Governors, and executive directors appointed by the relevant committee of the Trust.

"**Chair**" is the person appointed by the Council of Governors to lead the Board and the Council of Governors and to ensure that it successfully discharges its overall responsibility for the Trust. The expression “The Chair of the Trust” shall be deemed to include the Vice-Chair of the Trust if the Chair is absent from the meeting or is otherwise unavailable.

"**Vice-Chair**" means the non-executive director appointed by the Council of Governors to take on the Chair’s duties if the Chair is absent for any reason. The Constitution contains further guidance on the selection of the Vice Chair.

"**Director**" means a person appointed as an *executive or non-executive* director, and whose post carries with it Board membership status, and includes the Chair. It does not include either corporate directors or anyone else whose job title includes the word ‘director’. The official register of Directors will be posted on the Trust and NHSI’s website.

“**Senior Independent Director**” means the non-executive director appointed by the Board to provide a sounding board for the Chair and to serve as an intermediary for the other directors when necessary. The Senior Independent Director should also be available to Governors.

"**Chief Executive**" means the Chief Executive Officer of the Trust.

“**Chief Financial Officer**” means the Chief Finance Officer of the Trust.

"**Officer**" means any person whose contract of employment is held by the Trust.

"**Authorised Officer**” means the person(s) specified in the schemes of delegation document next to the appropriate paragraph as being the person(s) authorised for that purpose.

“**Accountable Officer**” shall be the officer responsible and accountable for funds entrusted to the Trust. He shall be responsible for ensuring the proper stewardship of public funds and assets. For the Trust this shall be the Chief Executive.

“**Budget**” shall mean a resource, expressed in financial terms, proposed by the board for the purpose of carrying out, for a specific period, any or all functions of the Trust.

“**Committee**” shall mean a committee appointed by the Trust.
“Committee Members” shall be persons formally appointed by the Trust to sit on or to chair specific committees.

“Constitution” shall mean the Constitution, approved by NHSI (the sector regulator for health services in England), and which describes the operation of the Foundation Trust.

“Funds held on Trust” shall mean those funds which the Trust holds at its date of incorporation, receives on distribution by statutory instrument, or chooses subsequently to accept under Schedule 2 Part II Para 16.1.c NHS & Community Care Act 1990. Such funds may or may not be charitable.

“Motion” means a formal proposition to be discussed and voted on during the course of a meeting.

“Secretary” means a person appointed by the Trust (the Foundation Trust Secretary) to act independently of the Board and monitor the Trust’s compliance with the law, Standing Orders and observance of Constitution and License.

“SFIs” means Standing Financial Instructions.

“SOs” means Standing Orders.

“Council of Governors” means that body of elected and appointed governors, authorised to be members of the Council of Governors and act in accordance with the Constitution. “COG” means the Council of Governors.

“Member” means any person registered as a member of the Trust, and authorised to vote in elections to elect governors.

2. THE TRUST

All business shall be conducted in the name of the Trust.

All Trust staff and members must comply with the Trust’s Standards of Business Conduct and Conflicts of Interest Policy and the national guidance contained in HSG(93)5 on ‘Standards of Business Conduct for NHS staff’.

All funds received in trust shall be held in the name of the Trust as corporate trustee. In relation to funds held on Trust, powers exercised by the Trust as a corporate trustee shall be exercised separately and distinctly from those powers exercised as a Trust.

The Trust has the functions conferred on it by the Health and Social Care (Community Health and Standards) Act 2003, and by its License, which include the Constitution.

Directors acting on behalf of their Trust as a corporate trustee are acting as quasi-trustees. Accountability for charitable funds held on trust is to the Charity Commission. Accountability for non-charitable funds held on trust is only to NHSI.

The Trust has resolved that certain powers and decisions may only be exercised or made by the board in formal session. These powers and decisions are set out in “Matters Reserved for the Board” contained within the Trust’s SFIs and have effect as if incorporated into the Standing Orders.
2.1 Composition of the Board of Directors
In accordance with the Constitution the composition of the Board of Directors of the Trust shall be:

- The Chair of the Trust;
- 6 Non-Executive Directors; and
- 5 Executive Directors including:
  - Chief Executive;
  - Chief Financial Officer;
  - Medical or Dental practitioner; and
  - Registered Nurse or Midwife.

2.2 Appointment of the Chair and Directors
The regulations for such appointments are laid down in the Constitution and are summarised as follows. The Chair and Non-Executive Directors are appointed by the Council of Governors (COG). The COG shall appoint a committee (the Nominations Committee), whose members shall be laid down in terms of reference, to select suitable candidates for their approval. The Chief Executive will be appointed and removed by the Non-Executive Directors, and this appointment is subject to approval by the COG. Executive Directors, except for the Chief Executive, will be appointed or removed by a committee whose members shall be the Chair and the Non-Executive Directors.

2.3 Terms of office of the Chair and Non-Executive Directors
The regulations governing the period of tenure of office of the Chair and Non-Executive Directors and the termination or suspension of office of the Chair and Non-Executive Directors are contained in the Constitution.

2.4 Appointment of the Vice-Chair
2.4.1 For the purpose of enabling the proceedings of the Trust to be conducted in the absence of the Chair, the Board of Directors will recommend one of the non-executive directors to be the Vice Chair of the Trust. The Council of Governors will be asked to ratify this recommendation. This appointment as Vice-Chair will be for such a period, not exceeding the remainder of their term as non-executive director of the Trust.

2.4.2 Any Non-Executive Director so appointed may at any time resign from the office of Vice-Chair by giving notice in writing to the Chair and the directors of the Trust may thereupon recommend another non-executive director to be Vice-Chair in accordance with Standing Order 2.4.1. The Constitution contains further advice on occasions when the Council of Governors is discussing matters relating to the Chair.

2.5 Powers of the Vice-Chair
Where the Chair of the Trust has died or otherwise ceased to hold office, or where he has been unable to perform his duties as Chair owing to illness, absence or any other cause, references to the Chair shall, so long as the Chair is unable to perform his duties, be taken to included references to the Vice-Chair.

2.6 Senior Independent Director
In consultation with the Council of Governors, the Board should appoint one of the independent non-executive directors to be the Senior Independent Director (SID).
The SID should provide a sounding board for the Chair and to serve as an intermediary for the other directors when necessary. The SID should be available to Governors if they have concerns that contact through the normal channels of Chair, Chief Executive, Chief Financial Officer or Trust Secretary has failed to resolve, or for which such contact is inappropriate.

2.7 Joint Directors
Where one or more persons is appointed jointly to a post in the Trust which qualifies the holder for executive directorship, those persons shall become appointed as an executive director jointly, and shall count for the purpose of Standing Order 2.1 as one person.

2.8 Relationship between the Board of Directors and the Council of Governors
The Constitution describes the duties of these two bodies in more detail. In summary the Board of Directors manage the business of the Trust (in accordance with the Constitution), and the CoG conduct a number of tasks, among them:

- to approve the appointment the Non-Executive members of the Board (after selection by the Nominations Committee);
- to decide their remuneration and terms and conditions of office;
- to appoint auditors; and
- to review various periodic reports listed in the constitution, presented to them by the Board.

The CoG will also represent the views of their constituency, staff group or stakeholder, so that the needs of the local health economy are taken into account when deciding the Trust’s strategic direction and other relevant matters.

In situations where any conflict arises between the Board of Directors and the Council of Governors, then the decision of the Chair shall normally be final. However, there may be circumstances where the Chair feels unable to decide owing to a conflict of interest. In such a situation, the Chair will initiate an investigation and make recommendations. Normally this will be achieved by inviting the Chair of another foundation trust to conduct the investigation, and the choice of individual will be agreed by both the Council of Governors and the Board.

The SID shall be available to the CoG for any concerns regarding the Board, in particular the Chair and Non-Executive Directors.

3. MEETINGS
(please see Appendix 1 and 2 for committees and subcommittees of the Board and the Trust’s Governance Performance System)

3.1 Calling meetings
3.1.1 Ordinary meetings
Ordinary meetings of the Board of Directors shall be held at regular intervals at such times and places as the Board of Directors may determine. Normally this will be monthly, except for August and December, on the fourth Wednesday of the month. The Chair may decide, taking into account business needs, to hold Board meetings in August and December if appropriate.

3.1.2 Extraordinary meetings
The Chair may call a meeting of the Board of Directors at any time. If the Chair refuses to call a meeting after a requisition for that purpose, signed by at least four directors, has been presented to him, or if, without so refusing, the Chair does not call a meeting within seven days after such requisition has been presented to him, such four or more directors may forthwith call a meeting.

3.2 Notice of meetings
Before each meeting of the Board of Directors, a notice of meeting, specifying the business proposed to be transacted at it, shall be issued by the Secretary. This notice shall be delivered to every Director (including by email), or sent by post to their usual place of residence or other address nominated by the Director, so as to normally be available to all Directors at least seven days before the meeting. The agenda and wherever possible the accompanying papers will be dispatched to Board members no later than five working days before the meeting, save in an emergency.

3.3 Setting the Board agenda
The Trust may determine that certain matters shall appear on every agenda for a meeting of the Trust Board and shall be addressed prior to any other business being conducted.

A director desiring a matter to be included on the agenda shall make his request in writing to the Chair at least twelve days before the meeting, subject to SO 3.2. Requests made less than twelve days before a meeting may be included on the agenda at the discretion of the Chair.

Lack of service of the calling notice on any Director shall not affect the validity of a meeting.

In the case of a meeting called by Directors in default of the Chair, the notice shall be signed by those Directors and no business shall be transacted at the meeting other than that specified in the notice.

3.4 Public Meetings
The Trust recognises that it should be as open as possible and to this end will have its general Council of Governors (COG) meetings in public; COG meetings are usually held quarterly. The rules for the calling and conduct of meetings of the Council of Governors are contained in the Constitution and the COG Rules of Procedure.

The public and representatives of the press shall be afforded facilities to attend all general meetings of the Council of Governors.

3.5 Annual Members meeting
Requirements for the Annual Members Meeting are laid down in the Constitution. The Trust will hold an annual members meeting within 8 months of the end of each financial year at which it will present its annual report, audited annual accounts, the report made on those accounts by the auditor and membership and forward planning information. An additional public members meeting will be called if the auditor issues a report in the public interest other than at the end of the financial year.
3.6 Procedures at Trust Board meetings

3.6.1 Notice of motion
A Director desiring to move a motion shall send a notice thereof at least twelve clear days before the meeting to the Trust Chair. The Chair shall insert in the agenda for the meeting all notices so received that are in order. This Standing Order shall not prevent any motion being withdrawn, or moved without notice, on any business mentioned on the agenda for the meeting. Such withdrawals, or moving of motions without notice, shall be at the discretion of the Chair of the meeting, pursuant to the powers per Standing Order 3.10.

3.6.2 Withdrawal of motion or amendments
A motion or amendment once moved and seconded may be withdrawn by the proposer with the concurrence of the seconder and the consent of the Chair.

3.6.3 Petitions
Where a petition has been received by the Trust the Chair shall include the petition as an item for the agenda of the next meeting.

3.6.4 Emergency motions
Subject to agreement by the Chair and of Standing Order 3.6.1, a member of the Board may give written notice of an emergency motion after the issue of the notice of the meeting and the agenda, up to one hour before the time fixed for the meeting. The notice shall state the grounds of urgency. If in order, the Chair shall declare the item to the Board at the commencement of the business of the meeting as an additional item included in the agenda. The Chair’s decision to include the item shall be final.

3.6.5 Motion to rescind a resolution
Notice of motion to amend or rescind any resolution which has been passed within the preceding six calendar months shall bear the signatures of the directors who give it and also the signature of four other directors. When any such motion has been disposed of by the Trust, it shall not be competent for any director other than the Chair to propose a motion to the same effect within six months. However, the Chair may do so if he considers it appropriate.

3.6.6 Motions
The mover of a motion shall have a right of reply at the close of any discussion on the motion or any amendment thereto.

When a motion is under discussion, or immediately prior to discussion, it shall be open to a director to move:

- An amendment to the motion;
- The adjournment of the discussion or the meeting;
- That the meeting proceed to the next business (*);
- The appointment of an ad hoc committee to deal with a specific item of business; and
- That the motion be now put (*);

* In the case of sub-paragraphs noted by (*), to ensure objectivity, motions may only be put by a director who has not previously taken part in the debate.
No amendment to the motion shall be admitted if, in the opinion of the Chair of the meeting, the amendment negates the substance of the motion.

3.7 **Chair of meetings**

At any meeting of the Board of Directors the Chair, if present, shall preside. If the Chair is absent from the meeting the Vice-Chair, if present, shall preside. If the Chair and Vice-Chair are absent, such Non-Executive Director as the Directors present shall choose, shall preside.

If the Chair is absent from a meeting of the Board temporarily on the grounds of a declared conflict of interest the Vice-Chair, if present, shall preside. If the Chair and the Vice-Chair are absent, or are disqualified from participating, such Non-Executive Director as the Directors present shall choose will preside.

3.8 **Record of attendance**

The names of the Directors present at the meeting shall be recorded in the minutes.

3.9 **Quorum**

No business shall be transacted at a meeting unless at least four Directors are present, including at least one Executive Director and one Non-Executive Director.

An officer in attendance for an Executive Director but without formal acting up status may not count towards the quorum.

If a Director has been disqualified from participating in the discussion on any matter and/or from voting on any resolution by reason of the declaration of a conflict of interest (See Standing Order 3.14 & 3.15) he shall no longer count towards the quorum. If a quorum is not then available for the discussion and/or the passing of a resolution on any matter, that matter may not be discussed further or voted upon at that meeting. Such a position shall be recorded in the minutes of the meeting.

The Trust will decide what arrangements and terms and conditions it feels appropriate to offer in extending an invitation to observers to attend any of the Trust’s Board meetings. The Chair will decide on attendance at Board meetings by officers or invited attendees.

3.10 **Chair’s ruling**

The decision of the Chair of the meeting on questions of order, relevancy and regularity (including the procedure on handling motions) and his interpretation of the Standing Orders shall be final.

3.11 **Voting**

Every question at a meeting shall be determined by a majority of the votes of the Chair and Directors present and voting on the question. In the case of any equality of votes, the person presiding shall have a second or casting vote.

In a situation where the office of Executive Director is shared by more than one person their attendance and voting at meetings will be in accordance with Standing Order 3.13.
Where the Chair so directs, or where it is proposed, seconded and carried to do so, a vote shall be taken by paper ballot. Otherwise, all questions put to the vote shall, at the discretion of the Chair, be determined by oral expression or by a show of hands.

If at least four of the Directors present so request, the voting on any question may be recorded so as to show how each Director present voted or did not vote.

If a Director so requests, his vote shall be recorded by name.

In no circumstances may an absent director vote by proxy. Absence is defined as being absent at the time of the vote.

An officer, who has been appointed formally by the Board to act up for an Executive Director during a period of incapacity, or temporarily to fill an Executive Director vacancy, shall be entitled to exercise the voting rights of the Executive Director. An officer’s status when attending a meeting shall be recorded in the minutes.

3.12 Minutes
The Minutes of the proceedings of a meeting shall be drawn up and submitted for agreement at the next ensuing meeting, where they will be signed by the person presiding at it.

No discussion shall take place upon the minutes except upon their accuracy or where the Chair considers discussion appropriate. Any amendments to the minutes shall be agreed and recorded at the next meeting.

Minutes shall be circulated in accordance with Chair’s wishes.

3.13 Joint Directors
Where a post of Executive Director is shared by more than one person:

a) both persons shall be entitled to attend meetings of the Trust;

b) either of those persons shall be eligible to vote in the case of an agreement between them;

c) In the case of disagreement between them no vote should be cast; and

d) the presence of either or both of those persons shall count as one person for the purposes of Standing Order 3.9 above.

3.14 Declaration of Board Members’ interests
The Constitution requires Board members to declare interests which are relevant and material to the Board of which they are a member, and lists those interests to be declared. All Board members should be guided by this and declare any such interests.

Any such interests should be declared by Board members to the Secretary, who will report it at the next Board meeting. If Board members have any doubts about the relevance of an interest, this should be discussed with the Chair. There will be an annual check of the register of interests in advance of the production of the Annual Report.
There is no requirement for the interests of Board members’ spouses, partners or close relatives to be declared. Members may, however, wish to voluntarily disclose such interests where they are known to the member and would be classed as relevant and material interests if they were the interests of the member themselves.

At the time Board members’ interests are declared, they should be recorded in the Board’s Minutes. The Minutes containing information about the interests of Board members should be drawn to the attention of the Trust’s internal and external auditors. Any changes to members’ interests should also be declared within four weeks of the change occurring, and recorded in Board Minutes.

Board members’ directorships of companies likely or possibly seeking to do business with the NHS should be published in the Trust’s Annual Report. The information should be kept up to date for inclusion in succeeding Annual Reports. A register of directors’ interests is also to be maintained on the Trust’s website.

3.15 Interest of Directors in contracts and other matters at meetings of the Board of Directors

3.15.1 Subject to the provisions of Standing Order 3.15.3, if a Director has any pecuniary, personal or family interest, direct or indirect, in any contract, proposed contract or other matter and is present at a meeting of the Trust at which the contract, proposed contract or other matter is the subject of consideration, they shall at the meeting and as soon as practicable after its commencement disclose the fact and shall not take part in the consideration or discussion of the contract or other matter or vote on any questions with respect to it.

3.15.2 The Chair should consider whether to exclude a director from a meeting of the Trust while any contract, proposed contract or other matter in which he/she has a pecuniary, personal or family interest, is under consideration.

3.15.3 For the purpose of this Standing Order the Chair or a director shall be treated, subject to Standing Order 3.15.6, as having an indirect pecuniary interest in a contract, proposed contract or other matter if:

a) they, or a nominee of theirs, is a director of a company or other body not being a public body, with which the contract was made or is proposed to be made or which has a direct pecuniary interest in the other matter under consideration;

b) they are a partner of, or in the employment of, a person with whom a contract was made or is proposed to be made, or who has a direct pecuniary interest in the other matter under consideration; and/or

c) in the case of married persons, or those living together, the interest of one partner shall, if known to the other, be deemed for the purposes of this regulation to also be an interest of the other.

3.15.4 Any remuneration, compensation or allowances payable to a Director by virtue of paragraph 9 of Schedule 2 to the National Health Service and Community Care Act 1990 shall not be treated as a pecuniary interest for the purpose of this Standing Order.

3.15.5 A Director shall not be treated as having a pecuniary interest in any contract, proposed contract or other matter by reason only:
a) of their membership of a company or other body if they have no beneficial interest in any securities of that company or body; and/or

b) of an interest in any company, other body or connected person (as defined in Standing Order 3.15.4.) which is so remote or insignificant that it cannot reasonably be regarded as likely to influence a Director in the consideration or discussion of, or voting on any question with respect to that contract, proposed contract or other matter.

3.15.6 Where a Director:

a) has an indirect pecuniary interest in a contract, proposed contract or other matter by reason only of a beneficial interest in securities of a company or body; and

b) the total nominal value of the securities does not exceed 2% of the total nominal value of the issued share capital of the company or body, whichever is the less; and

c) if the share capital is of more than one class, the total nominal value of shares of any one class in which he has a beneficial interest does not exceed 2% of the total issued share capital of that class.

This Standing Order shall neither prohibit him/her from taking part in the consideration or discussion of the contract or other matter nor from voting on any question with respect to it without prejudice however to his/her duty to disclose his/her interest.

3.15.7 Standing Order 3.15 applies to a committee or sub-committee of the Trust as it applies to the Trust, and applies to any member of such a committee or sub-committee (whether or not he is also a Director of the Trust) as it applies to a Director of the Trust.

3.16 Register of Interests

The Chief Executive will ensure that a Register of Interests is established to formally record declaration of interests of Directors and officers in line with the requirements of the Constitution, and the Trust’s Policy for the Standards of Business Conduct. In particular, the Register will include details of all directorships and other relevant and material interests which have been declared by both Executive and Non-Executive Directors of the Trust as defined in the Constitution. Directors should notify the Secretary when their previous declaration changes. In addition Directors’ details will be kept up to date by means of an annual review of the Register to be conducted by the Secretary in April of each year prior to production of the Annual Report.

In accordance with the Constitution, the Register of Directors and the Board’s Register of Interests will be made available on the Trust’s website and in hard copy upon request to the Secretary. Details will also be made available in the Annual Report.

4. ARRANGEMENTS FOR THE EXERCISE OF TRUST FUNCTIONS

Subject to any directions to the contrary by NHSI or the Trust itself, the Trust may make arrangements for the exercise of any of its functions, by a committee, sub-committee or joint committee with another corporate body, or by an officer of the Trust.
The Board has approved the following arrangements for the exercise of its functions:

- **Matters Reserved for the Board** - details of these are set out under “Matters Reserved for the Board” within the Trust’s Standing Financial Instructions document.

- **Emergency Powers** - the powers which the Board has retained to itself may, in emergency, be exercised by the Chief Executive and the Chair after having consulted at least two Non-Executive Directors. The exercise of such powers by the Chief Executive and the Chair shall be reported to the next formal meeting of the Board for ratification.

- **Committees of the Trust** - the general appointment and constitution requirements for Trust Committees are detailed in Standing Orders 4.1 and 4.2. Appendix 1 details the Committees of the Trust as at November 2017.

- **Scheme of Delegation** - as set out in the Scheme of Delegation schedules, which are contained within the Trust’s SFIs, these show the Authorised Officer(s) with delegated responsibility for deciding particular matters and those who may act in their absence.

- **Chief Executive** - the responsibilities of the Chief Executive are set out in Standing Order 4.4 below.

The Chief Executive shall prepare a Scheme of Delegation identifying his/her proposals which shall be considered and approved by the Board, subject to any amendment agreed during the discussion. The Chief Executive may periodically propose amendments to the Scheme of Delegation which shall be considered and approved by the Board as indicated above.

Nothing in the Scheme of Delegation shall impair the discharge of the direct accountability to the Board of the Chief Financial Officer or other Executive Director to provide information and advise the Board in accordance with any statutory requirements.

The arrangements made by the Board as set out in the “Matters Reserved for the Board”, which is contained within the Trust’s SFIs, shall affect as if incorporated in these Standing Orders.

### 4.1 Appointment of Board Committees and Sub-Committees

Subject to Standing Order 2.2 and such directions as may be given by NHSI, the Board may appoint committees of the Trust, consisting wholly or partly of Directors of the Trust or wholly of persons who are not Directors of the Trust.

The Board approved list of committees, together with their designated functions, as at November 2017, are detailed in Appendix 1 to these Standing Orders.

A Committee appointed under Para 1 Standing Order 4.1 may, subject to such directions as may be given by NHSI or the Trust, appoint sub-committees consisting wholly or partly of members of the committee (whether or not they include Directors of the Trust) or wholly of persons who are not members of the committee (whether or not they include Directors of the Trust).

The Standing Orders of the Trust, shall apply, subject to any appropriate alterations, to meetings of any committees established by the Trust.
The Board will either set terms of reference for committees, or will specify the arrangements for so doing. Committees may not delegate their executive powers to a sub-committee unless expressly authorised by the Board.

The Board shall approve the appointment of each committee which it has formally constituted. Where the Board determines that persons, who are neither Directors nor officers, shall be appointed to a committee, the terms of such an appointment shall be determined by the Board subject to the payment of travelling and other allowances being in accordance with current regulations in force across the Trust.

Where the Trust is required to appoint persons to a committee and/or to undertake statutory functions, and where such appointments are to operate independently of the Trust such appointment shall be made in accordance with the regulations laid down by the relevant authority.

4.1.1 Committee for appointing Chief Executive as Director
As laid down in the Trust's Constitution, the Chair and Non-Executive Directors of the Trust will appoint the Chief Executive as a Director of the Trust, subject to approval by the Council of Governors.

4.1.2 Committee for appointing Executive Directors other than the Chief Executive
As laid down in the Trust's Constitution, a Committee, whose members shall be the Chair, the Non-Executive Directors and the Chief Executive of the Trust, will appoint the Executive Directors of the Trust other than the Chief Executive.

4.1.3 Committees for exercising of specific functions
The Board of Directors may appoint a committee to exercise specific functions on its behalf, subject to reporting to a meeting or meetings of the full Board of Directors as the Trust shall direct. If the Chair deems it necessary to set up such a committee urgently, he shall report his action to the next full meeting of the Board of Directors.

4.2 Board Committee and Sub-Committees: Constitution
The Chair and members of each Board Committee shall be specified in the Committee's Terms of Reference.

Any Board Committee shall be summoned on the request of its Chair.

4.3 Board Committee and Sub-Committees: Confidentiality
A member of any Board Committee shall not disclose any matter dealt with by, or brought before, the Committee, without its permission, until the Committee shall have reported to the Board of Directors or shall have otherwise have concluded action on that matter.

If the Board resolves that a matter reported to the Board or otherwise dealt with by Committee is confidential, then members of the Board of Directors or the Committee in question shall not disclose any such matter.

4.4 Chief Executive
The Chief Executive shall be personally accountable to the Council of Governors and Board of Directors for the discharge of the general management function of the Trust. This includes responsibility for planning, implementation, control and managerial performance. It also includes responsibilities for the implementation of
financial policies, after taking account of advice given by the Chief Financial Officer on all such matters. The Chief Financial Officer will also be accountable to the Board of Directors for this advice.

The Chief Executive will ensure that the Board of Directors is provided with the range of advice and information it needs to formulate policies, decide priorities, set objectives and monitor progress.

5. **CUSTODY OF AND SEALING OF DOCUMENTS**

5.1 **Custody of seal**
The Common Seal of the Trust shall be kept by the Chief Executive or an officer authorised by him in a secure place in accordance with arrangements approved by the Trust.

5.2 **Sealing of documents**
The Board of Directors approves that the seal should be affixed to the following documents:

- Purchase or Sale of Land;
- JCT Form of Contract with contractors;
- Appointment of architects, surveyors and engineers; and
- All leases.

The Seal shall be affixed in the presence of the Chair or a Non-Executive Director and the Chief Executive or an Executive Director, and shall be attested by those present. The form of attestation shall read,

"The Common Seal of the Royal Devon and Exeter National Health Service Foundation Trust was hereunto affixed as a deed in the presence of

..........................................................
(Chair / Non-Executive Director)

..........................................................
(Chief Executive / Authorised Officer)

5.3. **Register of Sealings**
Any document which has been sealed shall be reported to the Board without any undue delay.

In addition, the Chief Executive shall keep a Register of Sealings, in which he/she or another Authorised Officer shall enter a record of the sealing of every document. All such entries shall be consecutively numbered, and shall be signed by those present when the document is sealed.

6. **OFFICERS: APPOINTMENTS AND DECLARATIONS OF INTERESTS**

6.1 **Canvassing of and recommendations by Directors**
Canvassing of Trust Directors or any Board Committee directly or indirectly for any Trust appointment shall disqualify the candidate from such appointment. The details of this prohibition shall be included in any form of application or otherwise
brought to the attention of candidates. Contact with Trust Directors or any Board Committee by a candidate in the course of their normal duties will not be interpreted as canvassing.

A Director shall not solicit for any person any Trust appointment or recommend any person for such appointment. This paragraph shall not preclude a Director from giving a written testimonial of a candidate's ability, experience or character for submission to the Trust.

Informal discussions outside appointments panels or committees, whether solicited or unsolicited, should be declared to the panel or committee.

### 6.2 Relatives of Directors or officers

Candidates for any Trust appointment shall be advised that, when making their application, they must disclose in writing to the Trust whether to their knowledge they are related to any Director or Senior Officer of the Trust.

In addition, candidates on appointment should disclose in writing any beneficial interest in line with HSG(93)5 “Standards of Business Conduct for NHS staff” and the Trust’s Policy for the Standards of Business Conduct dated 30 March 2005.

Failure to disclose any such relationship shall disqualify a candidate and, if appointed, render him liable to instant dismissal.

Every Director and Senior Officer of the Trust shall disclose in writing to the Chief Executive any relationship between himself and a candidate of whose candidature that Director or Senior Officer is aware.

It shall be the duty of the Chief Executive to report in writing any such disclosure made pursuant to Standing Order 6.2 paragraphs 1 to 4 to the appropriate Committee considering the appointment of the candidate.

Where a relationship to a Director is disclosed Standing Order 3.15 shall apply.

On appointment, Directors (and prior to acceptance of an appointment in the case of Executive Directors) should disclose to the Trust whether they are related to any other Director or holder of any office under the Trust.

Standing Order 6.2 applies where either the applicant or applicant's spouse (including civil partner or common law husband or wife) has any of the following relationships to either a Director or Director's spouse or a Senior Officer or Senior Officers' spouse:

- first degree relatives (including half and step relations); and
- second degree relatives (including half and step relations).

### 6.3 Interest of officers in contracts

The rules for the declaration of interests by Directors are contained in the Constitution.

If it comes to the knowledge of any Trust Officer that a contract in which he has any pecuniary interest not being a contract to which he is himself a party, has been, or is proposed to be, entered into by the Trust, he shall at once give notice in writing to the Trust of the fact of his interest. In the case of married persons living
together, the interest of one spouse shall, if known to the other, be deemed to be also the interest of that other spouse.

An officer must also declare to the Chief Executive any other employment or business or other relationship of his, or of a cohabiting spouse, that conflicts, or might reasonably be predicted could conflict, with the interests of the Trust.

The Trust will require interests, employment or relationships to be declared by staff to be entered in a Register of Interests of Staff. This is to be held by the Trust’s Secretary.

7 MISCELLANEOUS

7.1 Suspension of Standing Orders
The meetings and proceedings of The Trust shall be conducted in accordance with the Constitution.

Subject to those Regulations and any other statutory provision or any direction made by NHSI, the Trust may, by resolution, suspend, vary or revoke any one or more of the Standing Orders at any meeting. For such a resolution to be valid at least eight of the whole number of the Directors of the Trust must be present and at least eight of the Directors present must signify their agreement.

A decision to suspend Standing Orders shall be recorded in the minutes of the meeting.

A separate record of matters discussed during the suspension of Standing Orders shall be made separately available to the Directors.

No formal business may be transacted while Standing Orders are suspended.

7.2 Variation and amendments of Standing Orders
These Standing Orders shall only be amended if:
- a notice of motion under Standing Order 3.6.1 has been given; and
- at least eight of the whole number of the Directors of the Trust must be present and at least eight of the Directors present must signify their agreement; and
- the variation proposed does not contravene a statutory provision or direction made by NHSI or the Secretary of State.

The proceedings of the Trust shall not be invalidated by any vacancy in its membership or by any defect in a Director’s appointment.

7.3 Standing Orders to be given to Directors and officers
The Chief Executive shall give a copy of the Standing Orders to each Director of the Trust and appropriate officers, including all Authorised Officers so designated per the Schemes of Delegation schedules.

7.4 Documents having the standing of Standing Orders
Standing Financial Instructions, Reservations of Power to the Board and Delegation of Powers shall have the effect as if incorporated into Standing Orders.
7.5 **Review of Standing Orders**
Standing Orders shall be reviewed every three years by the Trust. The requirement for review extends to all documents that have the effect as if incorporated in Standing Orders.

7.6 **Signature of legal documents**
Where any document will be a necessary step in legal proceedings on behalf of the Trust it shall, unless any enactment otherwise requires or authorises, be signed by the Chief Executive or an officer duly authorised by him for this purpose.

The Chief Executive or nominated officer shall be authorised, by resolution of the Board, to sign on behalf of the Trust any agreement or other document the subject matter of which has been approved by the Board or Committee or Sub-Committee to which the Board has delegated appropriate authority.

7.7 **Standing Financial Instructions**
Standing Financial Instructions adopted by the Trust shall have effect as if incorporated in these Standing Orders.

7.8 **Urgent decisions**
Where urgent decisions are required, the Chief Executive, in consultation with the Chair (or, in his absence, the Vice-Chair) may authorise urgent action in respect of a matter on behalf of the Trust which would normally have been considered by the Trust itself. Such action shall be recorded by the Chief Executive in a permanent record, and shall be reported to the next meeting of the Trust.

7.9 **Limits of Delegation to Officers**

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<th>Duly Authorised Officer</th>
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<td>7.6</td>
<td>Signature of legal documents</td>
<td>Executive Directors</td>
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7.10 **Non-Executive Directors’ attendance at meetings**
If a Non-Executive Director has not attended a meeting of the Board of Directors for a period of six months, the Board shall report his absence to NHSI and the Council of Governors. Unless the Council of Governors is satisfied that the absence was due to reasonable cause, his place on the Board of Directors shall be declared vacant and on the making of such a declaration that person shall cease to be a Non-Executive Director.

7.11 **Operation of shared services by the Trust**
Where Trust staff are operating a shared service then for the provision of the service that organisation’s Standing Orders should be followed. That is assuming the shared service is resourced to do so, where this is not the case the organisation will be informed. The conduct of the staff and the systems used to provide the service is governed by the Trust governance arrangements.
APPENDIX 1 – COMMITTEES AND SUB-COMMITTEES OF THE TRUST BOARD

The diagram below shows, pursuant to Standing Orders 4.2 and 4.3, the Committees and Sub-Committees (where formed) of the Board of Directors as at November 2017.

Note:
The Nominations Committee is a Committee of the Council of Governors not the Board of Directors.
APPENDIX 2 – GOVERNANCE, OPERATIONS AND PERFORMANCE SYSTEM

The diagram below shows the Governance, Operations and Performance system of the Trust as at November 2017.